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# A CANADIAN CHARTER OF HUMAN RIGHTS

HONOURABLE PIERRE ELLIOTT TRUDEAU  
MINISTER OF JUSTICE

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## TABLE OF CONTENTS

	PAGE
Introduction .....	7
Chapter	
I The Rights of the Individual .....	9
II A Constitutional Bill of Rights .....	13
III The Contents of a Canadian Charter of Human Rights ....	15
IV The Form of the Charter .....	29
Appendices	
I The British North America Acts, 1867 to 1965 .....	31
II The Canadian Bill of Rights, 1960 .....	83
III The Universal Declaration of Human Rights .....	87
IV The International Convention on the Elimination of all Forms of Racial Discrimination .....	95
V The International Covenant on Economic, Social and Cultural Rights .....	107
VI The International Covenant on Civil and Political Rights	117
VII The European Convention on Human Rights .....	141
VIII Amendments to the United States Constitution .....	163
IX Annotated list of principal Canadian legislation (both federal and provincial) protecting human rights .....	171



## INTRODUCTION

As Canada enters its second century of Confederation, Canadians could take no more meaningful step than to entrench firmly in our constitution those fundamental rights and liberties which we possess and cherish. A Canadian Charter of Human Rights would reflect and protect the high degree of freedom enjoyed by Canadians, and the unique bi-lingual character of the country. 1968 is a particularly appropriate year for us to act in this fashion for it has been named Human Rights Year by the United Nations General Assembly.

A constitutional Charter of Human Rights will form a first stage in the continuing process of redefinition of the Canadian constitution; it will provide the focus and set the pattern for the expectations of Canadians to be formulated into reality. It is a worthwhile task that we can all undertake with vigour and dedication.

I recommend to all Canadians the acceptance of a Canadian Charter of Human Rights.

  
*Prime Minister*

Ottawa  
January, 1968



## CHAPTER I

### **The Rights of the Individual**

Interest in human rights is as old as civilization itself. Once his primary requirements of security, shelter and nourishment have been satisfied, man has distinguished himself from other animals by directing his attention to those matters which affect his individual dignity.

In ancient times, and for centuries thereafter, these rights were known as "natural" rights; rights to which all men were entitled because they are endowed with a moral and rational nature. The denial of such rights was regarded as an affront to "natural" law—those elementary principles of justice which apply to all human beings by virtue of their common possession of the capacity to reason. These natural rights were the origins of the western world's more modern concepts of individual freedom and equality.

Cicero said of natural law that it was "unchanging and everlasting", that it was "one eternal and unchangeable law...valid for all nations and for all times."

In the Middle Ages, St. Thomas Aquinas emphasized that natural law was a law superior to man-made laws and that as a result all rulers were themselves subject to it.

The Reformation brought sharply to the fore the need for protection of freedom of religious belief.

As the concept of the social contract theory of government developed in the 18th century, still greater emphasis came to be given to the rights of the individual. Should a government fail to

respect natural rights, wrote Locke and Rousseau, then disobedience and rebellion were justified. Thus was borne the modern notion of human rights. So responsive were men to this notion that the greatest social revolutions in the history of the western world took place—one in America and the other in France—in order to preserve for individuals the rights which they claimed belonged to them.

This deep-seated desire for recognition of human dignity is reflected in the memorable words of the American Declaration of Independence:

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights Governments are instituted among men deriving their just powers from the consent of the governed; that whenever any form of Government becomes destructive of these ends, it is the right of the people to alter or abolish it and institute new Government. . . .”

The Bill of Rights in the United States, enacted as an amendment to the Constitution, serves to safeguard the individual from governmental intolerance of the “unalienable rights”.

In France, the 1789 Declaration of the Rights of Man and of the Citizen sought to achieve similar results. “Men are born and remain free and equal in respect of rights” it said. “The purpose of all civil associations is the preservation of the natural and imprescriptable rights of man. These rights are liberty, property and resistance to oppression.”

In both the United States and France, there was embodied the idea that men shall not be deprived of liberty or property except in accordance with the law. This is a manifestation of the belief that men should be ruled by laws, not men; that a government has no more power than the people have agreed to delegate to it.

Monarchies, as well as republics, are influenced by these principles; the authority of kings, as well as of presidents, is limited. Many of the Commonwealth countries which inherited a tradition of parliamentary sovereignty have introduced constitutional restrictions, denying to the parliament as well as to the monarch the power to interfere with certain of the subjects’ liberties. Constitutional checks on the exercise of governmental authority are a natural development in a democratic society.

The events of the Second World War were disturbing proof of the need to safeguard the rights of individuals. It is not by accident that an overwhelming number of newly independent states have

included within their constitutions comprehensive bills of rights. Since 1945 considerable discussion has taken place in Canada as well concerning similar constitutional measures. The topic has been considered by the Canadian Bar Association, by parliamentary committees, and by numerous commentators. While no constitutional step has been taken, some legislative enactments designed to protect human rights have been passed into law. Parliament in 1960 enacted the Canadian Bill of Rights—a step of considerable significance and one which prepares the way for a constitutional enactment. Several provinces have introduced human rights legislation, and a committee engaged in revision of the Quebec Civil Code has recently proposed that a declaration of civil rights be included in the revised code.

[These measures are all evidence of the interest of the Canadian people in some form of safeguard of individual liberty. To date, however, there does not exist in Canada any form of guarantee (beyond those few contained in the British North America Act) which a provincial legislature or Parliament, as the case may be, cannot repeal as freely as any other statute it has enacted. In this sense, no Canadian has the benefit of a constitutional protection as exists in dozens of other countries.]

An entrenched bill of rights would offer this constitutional protection, although at the price of some restriction on the theory of legislative supremacy. It is suggested that this is not too high a price to pay. In fact the theory of legislative supremacy is seldom pressed to its full extent. Indeed even in England, the birth-place of parliamentary government, fundamental liberties have been protected not only through the common law but also by means of such historic documents as Magna Carta (1215), the Petition of Right (1628), and the Bill of Rights (1689). The purpose of an entrenched bill of rights is simple and straight-forward. It has been described as serving "to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech and a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

A constitutional bill of rights in Canada would guarantee the fundamental freedoms of the individual from interference, whether federal or provincial. It would as well establish that all Canadians, in every part of Canada, have equal rights. This would constitute a major first step towards basic constitutional reform.

Canada could not choose a more appropriate year than this one for the consideration of a constitutional bill of rights for Canadians. 1968 has been declared International Human Rights Year by the General Assembly of the United Nations. The General Assembly has done so as an acknowledgement that the centuries-old interest in human rights is now, in the mid-twentieth century, of universal scope. The preamble of the United Nations Charter declares that the peoples of the United Nations are determined "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women". As a reflection of this determination, the United Nations in 1948 adopted the Universal Declaration of Human Rights. Since that date some 15 separate conventions or treaties have been sponsored by the U.N. dealing with particular rights of a more specialized character. Only last year, however, were those rights which are generally regarded as "fundamental" formulated into two Covenants, (The International Covenant on Economic, Social and Cultural Rights; The International Covenant on Civil and Political Rights) open for signature and ratification by all states.

It is the hopeful expectation of the General Assembly that in 1968 an aroused awareness by all peoples will result in government action everywhere. Canada has the opportunity to take a lead in this respect.

## CHAPTER II

### **A Constitutional Bill of Rights**

Canada's main constitutional documents—the British North America Act, 1867 and its amendments—contain few guarantees of specific liberties. The courts have from time to time been invited to find in the B.N.A. Act some implied guarantee that fundamental rights are constitutionally protected from either federal or provincial encroachment, but such an interpretation has never since been the basis of a majority judgment in the higher courts. At this time in their history, Canadians are not afforded any guarantees of fundamental rights which (a) limit governmental power *and* (b) possess a large measure of permanence because of the requirement that it be amended not by ordinary legislative process but only by the more rigorous means of constitutional amendment.

The 1960 Canadian Bill of Rights has served to inhibit Parliament from amending the terms of that Bill and from violating its principles, but this is not a constitutional limitation on Parliament, only an influence. Additionally, that Bill has in practice had a limited application because the Courts have held that it does not expressly over-ride any provisions inconsistent with it which may be contained in earlier federal statutes. While conceivably the 1960 Bill could have been interpreted so as to alter previously enacted statutes, the courts have not done this. There have been some conflicting opinions in various lower courts, but there has on the whole been a strong judicial tendency to assume that Parliament did not intend by the Bill of Rights to alter specific, pre-existing, inconsistent statutory

provisions. The Courts have said instead that Parliament would have made an express amendment had it intended to alter its own previously enacted laws. A Supreme Court Judge did on one occasion deal with this point, and held that the Bill of Rights would prevail over conflicting statutory provisions even if those had been enacted prior in time to the Canadian Bill of Rights, but his judgment dis-sented from the majority view to the contrary. In the result, the position remains unsatisfactory.

Nor can any other human rights legislation (federal or provincial) be considered truly "constitutional": all of it is subject to amendment or repeal by the enacting legislature; none of it attempts to affect the validity or effect of other conflicting laws. Such legislation, in addition, is generally directed against the invasion of human rights by individuals, not by governments or legislatures (though in some cases it does bind the Crown).

To overcome these shortcomings while preserving the essential purpose of the present Bill, a constitutionally entrenched Bill of Rights is required which will declare invalid any existing or future statute in conflict with it. Language in this form would possess a degree of permanence and would over-ride even unambiguous legislation purporting to violate the protected rights.

In addition to these considerations of permanency, there is an even more pressing reason why a bill of rights, in order to be effective, must assume a constitutional—rather than a merely legislative—form. This arises out of the Canadian constitutional division of legislative competence as between Parliament and the provincial legislatures. In Canada, authority to legislate with respect to some of the rights regarded as fundamental lies with the provinces, authority to legislate with respect to others of these rights lies with Parliament, and authority with respect to the balance is shared by the two. Only by a single constitutional enactment will the fundamental rights of all Canadians be guaranteed equal protection. A bill of rights so enacted would identify clearly the various rights to be protected, and remove them henceforth from governmental interference. Such an amendment, unlike most proposed constitutional amendments, would not involve a transfer of legislative power from one government to another. Instead, it would involve a common agreement to restrict the power of governments. The basic human values of all Canadians—political, legal, egalitarian, linguistic—would in this way be guaranteed throughout Canada in a way that the 1960 Canadian Bill of Rights, or any number of provincial bills of rights, is incapable of providing.

## CHAPTER III

### **The Contents of a Canadian Charter of Human Rights**

There are many different systems of classification used by writers to group and describe the various human rights. There is perhaps no classification system which is completely free of difficulties. The system employed here is but one of many and is used for the sake of convenience only.

Existing human rights measures in Canada are limited in scope. The Canadian Bill of Rights emphasizes political freedoms (speech, assembly, religion) and legal rights (freedom from arbitrary deprivation of life, liberty or property, and equality before the law). Other federal legislation and most provincial legislation is confined to prohibitions against discrimination in employment, admission to trade union membership, or the provision of accommodation. Some do go further. The Saskatchewan Bill of Rights, for example, embraces political and legal rights as well as a wider range of egalitarian rights, and the old Freedom of Worship Act (enacted during the pre-Confederation Union and still in effect in Ontario and Quebec) gives some guarantee of freedom of religion.

It is now suggested that there be included in a constitutional bill those rights which have been legislatively protected in Canada, and to add to them those linguistic rights which are recommended by the Royal Commission on Bilingualism and Biculturalism in the first volume of the Commission's report.

Rights which may be included in a bill of the sort under consideration here, fall into five broad categories: political, legal, egalitarian, linguistic, and economic. They are discussed in that order below.

## 1. POLITICAL RIGHTS

This term is used in a broad sense to cover matters of belief, their expression and advocacy. The several political rights (here called "freedoms") are enumerated; following each there is a short discussion of the major legal considerations which attach thereto.

### (a) *Freedom of expression*

These freedoms are presently protected legislatively in Section 1 of the Canadian Bill of Rights and in section 4 of the Saskatchewan Bill of Rights. The cases which have been decided to date indicate that these freedoms are largely subject to control by Parliament in the exercise of its criminal law power. There are, however, aspects of freedom of expression which may be subject to provincial limitation, as for example through the law of defamation, or through laws regulating advertising in provincial and municipal elections. For this reason adequate protection can only be offered in the form of a constitutional bill.

The means of definition of this freedom are of equal importance to its declaration. The question arises whether freedom of expression is best guaranteed in simple terms without qualification, or whether the limitations of this freedom ought to be specified. Opponents of an unconditional declaration fear that such wording might restrict the application of Criminal Code prohibitions against obscene or seditious publications, or provincial laws pertaining to defamation or film censorship. This is unlikely, however, for free speech as it developed in England was never equated with complete license. It has long been recognized, even before the Americans expressly guaranteed this right in their constitution, that free speech was subject to limitations for the protection of public order and morals. The United States courts have given the guarantees of the First Amendment very wide scope, but have upheld laws which prohibit speech inciting to unlawful acts, and laws which punish the publication of matter which is purely obscene with no significant redeeming social value. Defamation laws have also been allowed to operate.

In Canada, existing federal laws against sedition and obscenity have been construed so narrowly that it is unlikely they would be held to conflict with a guarantee of free speech. The obscenity pro-

visions of the Criminal Code have been applied since the enactment of the Canadian Bill of Rights without any conflict being recognized.

It is also unlikely that existing provincial laws against defamation would be upset by a free speech guarantee. As long as such legislation is confined to protecting long-recognized private rights of reputation there would be no conflict with the concept of "free speech". Nor is it anticipated that infringements of provincial laws relating to the regulation of advertising, so long as these are clearly related to some legitimate business regulation, would result. (A provincial protection of a right to privacy, now contemplated in some provinces, should also be possible.)

The alternative to a broad, unqualified description of "freedom of speech" is an enumeration of specific exceptions. An example of this more detailed type of language is found in Article 10 of the European Convention on Human Rights:

*Article 10*

- (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation of rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

A similar, detailed, approach has been taken in several constitutions patterned after the European Convention. By specifying the grounds for permissible limitations upon the right, possible uncertainties have been removed. The disadvantage of this technique, however, is its lack of flexibility and the difficulty of adapting the language to changed circumstances. For this reason the simple form of description is recommended.

*(b) Freedom of conscience and religion*

There is some legislative protection now. The Canadian Bill of Rights, section 1, recites "freedom of religion". The Saskatchewan

Bill of Rights, section 3, declares the right to "freedom of conscience, opinion, and belief, and freedom of religious association, teaching, practice and worship". The Freedom of Worship Act (applicable in Ontario and Quebec) declares the right to "the free exercise and enjoyment of religious profession and worship". It is arguable, however, that a guarantee of "freedom of religion" does not protect the freedom of the person who chooses to have no religion. To protect such persons, consideration could be given to widening the guarantee to protect, for example, "freedom of conscience".

Freedom with respect to the individual's internal belief or conscience might well be considered absolute and not qualified in any way. It is the external manifestation of the exercise or furtherance of beliefs which may give rise to problems and the need for limitations in the interest of public safety and order.

In these areas, for example, no one would dispute that federal laws should be able to prevent acts in the exercise of religious beliefs which would constitute obscenity, sedition, bigamy, or homicide. It is more debatable, however, what further powers Parliament should possess to permit it to restrict other religiously-motivated acts. An example is the imposition of Sunday closing of businesses on Christians and non-Christians alike. The Supreme Court of Canada has said that The Lord's Day Act is not a denial of freedom of religion but this is not to say that such limitations are consistent with freedom of "conscience".

The extent of provincial jurisdiction over matters of religion is far from clear, but it is evident from Sec. 93 of the B.N.A. Act that the provincial legislatures have some competence and responsibility in respect of the religious aspects of education.

Thus, constitutional action is required in order to protect all Canadians from legislative interference with their religious beliefs.

### *(c) Freedom of assembly and association*

These freedoms are now legislatively protected by section 1 of the Canadian Bill of Rights and by section 5 of the Saskatchewan Bill of Rights. They are closely related to freedom of expression and many of the comments made with respect to legislative jurisdiction over freedom of expression are equally applicable here. As with freedom of expression, they are not usually considered to be absolute but rather are subject to limitations in the interest of public order. Present federal limitations of this nature are mainly found in the Criminal Code relating to unlawful assembly, riot, conspiracy, watching and besetting, and disturbing the peace. Provincial limitations

exist in laws dealing with the incorporation or regulation of commercial, educational, charitable and other organizations otherwise within provincial control, in the use of roads and parks for public assemblies, and the like. All these limitations appear to be consistent with freedom of assembly and association so long as they are clearly related to the preservation of public safety and order.

## 2. LEGAL RIGHTS

These rights go to the very root of the concept of the liberty of the individual, so highly prized in Canada. They are dealt with now, to a certain extent, in sections 1 and 2 of the Canadian Bill of Rights and in section 6 of The Saskatchewan Bill of Rights. They are recognized as well by other statutory provisions and by rules of statutory interpretation developed by the courts. There is not, however, any constitutional protection of the rights.

These rights and their protection fall within both federal and provincial jurisdiction, depending on the context. Both federal and provincial legislation can deal with deprivations of liberty and property, and with judicial and administrative procedures affecting the citizen's interests. Any constitutional guarantee of security of life, liberty and property, or of fair legal procedures, will affect equally the federal and provincial governments.

The Canadian Bill of Rights lists most of the legal rights which need protection; with modification its provisions could form the basis for similar guarantees in a constitutional bill. Using it as a frame of reference, it is suggested that the rights enumerated below should be guaranteed:

### *(a) General security of life, liberty and property*

The Canadian Bill of Rights declares

The right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law.

The phrases "due process of law" and "according to law" or "according to the law of the land" have their origin in Magna Carta. They have been employed in one form or another in England, the United States and many other countries. The words "due process of law" have been given a double interpretation in the United States. The first of these is as a guarantee of procedural fairness. In this respect, similar words used in the Canadian Bill of Rights are intended to guarantee the specific requirements of fair procedure. The

words "due process" have, in addition, been given a substantive interpretation in the United States' courts with the result that the words have been employed as a standard by which the propriety of all legislation is judged. At one time the words used in this latter sense resulted in the judicial invalidation of minimum wage legislation, laws against child labour, and hours-of-work statutes. They were also used as a basis for courts to review public utility rates set by legislatures or regulatory agencies in order to ensure that the rates were, in the view of the courts, adequately compensatory. While more recently the substantive effect given to "due process" has diminished considerably in the United States, the demonstrated potential of this phrase could create some uncertainty in Canada unless its meaning was clearly recited.

In examining American experience with "due process", it appears that the guarantee as applied to protection of "life" and personal "liberty" has been generally satisfactory, whereas substantive due process as applied to "liberty" of contract and to "property" has created the most controversy. It might therefore be possible to apply the due process guarantee only to "life", personal "liberty" and "security of the person". The specific guarantees of procedural fairness set out elsewhere in the bill would continue to apply to any interference with contracts or property. In this fashion the possibility of any substantive "due process" problems would be avoided.

In the alternative, if "due process" is to remain applicable to "liberty" of contract and to "property", there should be spelled out in some detail what is involved. The European Convention and some modern constitutions use this technique with respect to each of the guarantees of life, liberty and property.

*(b) Equal protection of the law*

The Canadian Bill of Rights, section 1(b) declares "the right of the individual to equality before the law and the protection of the law".

It might be argued that this wording serves to overlap other provisions: "protection of the law" is already assured, for example, by the "due process" clause; "equality" would likely also be protected by a general prohibition against discrimination (such as appears in the Canadian Bill of Rights, and as is proposed for the constitutional bill of rights). There may, however, be rights implied in a general guarantee of equality before the law which are not otherwise specified. Because the basic concept is sound, it is desirable to retain some such guarantee.

The phrase "equality before the law" has at least once been construed narrowly in Canada. It was there taken to mean that if one person is treated the same as all others of his race, this is "equality" even if his race is treated differently from other races. The comparable provision in the Fourteenth Amendment to the U.S. Constitution guarantees "the equal protection of the laws". This has generally been construed in the American courts to prohibit legislative distinctions as between various classes of persons except those rationally related to some legitimate legislative object. If this is the result which is desired, there would likely be some advantage in using the American wording.

(c) *Cruel punishment, etc.*

Section 2(b) of the Canadian Bill of Rights now provides that no law of Canada is to be deemed to "impose or authorize the imposition of cruel and unusual treatment or punishment". This provision is similar to one in the English Bill of Rights of 1689. A guarantee against such treatment or punishment is also found in the Eighth Amendment to the U.S. Constitution, where it has caused few difficulties. While a court would likely be extremely reluctant to substitute its opinion of a proper punishment for that of the legislature, the power to do so could prove useful in extreme cases.

(d) *Rights of an arrested person*

Section 2(c) of the Canadian Bill of Rights states that no law of Canada shall be deemed to

deprive a person who has been arrested or detained

- (i) of the right to be informed promptly of the reason for his arrest or detention,
- (ii) of the right to retain and instruct counsel without delay, or
- (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful. . .

It is recommended that the same rights be protected in a constitutional bill.

The scope of Clause (ii) has not yet been determined by the courts, but this jurisprudence will develop in due course. One aspect might better be dealt with more specifically, however, than was done in the 1960 Canadian Bill of Rights. This involves the effect of the denial to an accused of the opportunity to retain counsel. Judicial decisions to date under the Canadian Bill of Rights have held that, in instances where counsel is denied, such denial does not affect the

admissibility of evidence obtained from an accused interrogated or examined without benefit of counsel. It might be preferable, and more in keeping with the spirit of the bill, to provide that evidence so obtained is inadmissible and that the resulting convictions are invalid if they cannot stand in the absence of the inadmissible evidence.

*(e) Right of a witness to counsel*

Section 2(d) of the Canadian Bill of Rights provides that no law of Canada is to be deemed to

authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self-crimination or other constitutional safeguards. . .

and this right should appear in a constitutional bill.

*(f) Fair hearing*

Section 2(e) of the Canadian Bill of Rights provides that no law of Canada shall be deemed to

deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations. . .

This is a fundamental requirement which is already generally recognized in the public law of Canada. In a new constitutional bill of rights it might well be placed in association with the fundamental rights to life, liberty and property.

This kind of guarantee is fundamental to the impartial administration of justice. The general requirements of a "fair hearing" are well known. There are some uncertainties, however, as to where a "fair hearing" is required. The language of the Canadian Bill of Rights indicates that it is required when a person's "rights and obligations" are being determined. These words appear also in the European Convention on Human Rights and some other constitutions drawing upon it. If construed narrowly, such words would apply only to situations involving a dispute between two parties over pre-existing rights. Wider language may be needed if it is the intention that "fair hearing" requirements be extended to such activities as the granting or withdrawal of licences by government agencies, the certification or decertification of unions, or the conduct of a hearing in an investigation under the Income Tax Act or under a provincial Securities Act.

(g) *Presumption of innocence*

Section 2(f) of the Canadian Bill of Rights states that no law of Canada is to be deemed to

deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause...

The reference to "according to law", "fair hearing", and "independent and impartial tribunal" reiterate rights guaranteed elsewhere. The requirement of a "public" hearing need not create difficulties. The courts have not construed the Canadian Bill of Rights as preventing the closed court sittings now authorized by the Criminal Code in cases involving, for example, the protection of young accused persons or the security of the state. If desired, however, specific exceptions could be made along the lines of those contained in the European Convention, and in the constitutions patterned on it.

The presumption of innocence is a fundamental ingredient of Canadian criminal justice, and must be guaranteed. This is not to say that the various federal and provincial penal statutes which contain "reverse onus" clauses (clauses which take the existence of certain facts to be proof of other facts unless the accused can produce evidence to the contrary) will be declared unconstitutional. So far the courts have distinguished this kind of factual presumption from a presumption of guilt, and have allowed such federal statutory provisions to apply in spite of the Canadian Bill of Rights.

A constitutional bill of rights will assure that these provisions regarding presumption of innocence, and fair and public hearings will apply equally to prosecutions under provincial legislation as to prosecutions under federal law. Such protection is not afforded by the 1960 Canadian Bill of Rights.

(h) *The right to an interpreter*

Section 2(g) of the Canadian Bill of Rights states that no law of Canada is to be deemed to

deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

This is an important right, and should be retained.

(i) *Other legal rights for possible inclusion*

There are other legal rights which might be included in a constitutional bill of rights which were not included in the 1960 Canadian Bill. Following are some examples.

- (i) Guarantee against *ex post facto* laws creating crimes retroactively. Article I, section 9 of the U.S. Constitution gives such a guarantee, as does Article 7 of the European Convention.
- (ii) Guarantee against unreasonable searches and seizures. The Fourth Amendment to the U.S. Constitution provides such a guarantee. Article 8 of the European Convention and some constitutions based on it appear to emphasize protection of the private home against interference. At the present time in Canada, evidence obtained not only by means of an unreasonable search but by actual illegal means (as, for example, by theft) is generally completely admissible in the Courts. It is suggested that this double standard of conduct should no longer be tolerated on the part of law enforcement agencies. Illegally obtained evidence should be as inadmissible as an illegally obtained confession.
- (iii) Guarantee of the right of a citizen not to be exiled. This may be provided for in section 2(a) of the Canadian Bill of Rights where it refers to "exile", but that clause only prohibits "arbitrary" exile. It is suggested that any exile, whether arbitrary or not, should be prohibited. Apart from the inhumanity of exile there is serious doubt that, in international law, any country is entitled to banish its own citizens. ("Exile", as used here, is to be distinguished from "deportation", which applies only to aliens. If desired, the definition of exile could be extended to include deprivation of citizenship. If this is done, however, the qualification of "arbitrary" should be retained.)

### 3. EGALITARIAN RIGHTS

This term as used here refers to guarantees against governmental action which would tend to distinguish certain persons or groups of persons for different treatment on the basis of their race, national origin, or other factors unrelated to the purpose for which the distinction is made.

Existing legislation shows a widespread concern about racial and similar discrimination. The Canadian Bill of Rights declares that the

rights listed in Section 1 (due process; equality before the law; freedom of religion, speech, assembly, and the press) exist without discrimination by "race, national origin, colour, religion or sex". Federal legislation and legislation in eight provinces and both territories prohibit discrimination in employment. Seven provinces and the two territories also prohibit discrimination in public accommodation. The greater number of these statutory provisions, however, are designed to affect only private conduct. A constitutional bill of rights would serve to limit discriminatory activities on the part of governments as well.

The prohibited criteria of discrimination, as well as the areas of activity where discrimination is forbidden, should be considered in any anti-discrimination clauses:

(a) *Prohibited criteria of discrimination*

It is suggested that the bill should provide that the criteria listed in section 1 of the Canadian Bill of Rights—race, national origin, colour, religion, sex—should be retained as prohibited criteria for discrimination. Additional prohibited criteria might be considered, as for example, ethnic origin.

(b) *Areas of activity where discrimination might be forbidden*

- (i) voting or the holding of public office;
- (ii) employment—here it is suggested that there be added a qualification to the effect that distinctions based on a *bona fide* occupational qualification are not prohibited. In this way, possible difficulties concerning, for example, provincial legislation authorizing the hiring of teachers for denominational schools on the basis of their religious belief will be avoided;
- (iii) admission to professions where admission is controlled by professional bodies acting under legislative authority;
- (iv) education—special provisions will be required here to avoid inconsistencies with the guarantees of separate or denominational schools contained in section 93 of the B.N.A. Act and corresponding sections in other constitutional statutes relating to other provinces, for in some cases these school guarantees authorize religious distinctions in student admission policies. An exception to cover situations where a system of separate or denominational schools exists will suffice if there is added to it a provision for educational institutions run exclusively by religious bodies;

- (v) use of public accommodation, facilities and services;
- (vi) contracting with public agencies;
- (vii) acquiring of property and interests in property.

Admittedly, these anti-discrimination provisions might be considered to be embodied in the "equality before the law" clause. But just as it has been found desirable to detail certain aspects of "due process", it may also be useful to detail certain aspects of "equality".

#### 4. LINGUISTIC RIGHTS

Section 133 of the British North America Act, 1867 provides as follows:

Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Thus there already exists a constitutional guarantee of the use of both languages in governmental processes, but this extends only to the legislature and courts of Quebec and to the Parliament and courts of Canada. In matters of education, it has been held that the guarantees of separate or denominational schools do not include any guarantee of the right to use either language as a medium of instruction.

It is submitted that these language guarantees be extended to other institutions of government and to education as has been recommended by the Royal Commission on Bilingualism and Biculturalism. These guarantees would prove effective, it is suggested, if incorporated into a constitutional bill of rights.

If expressed widely, the proposed rights would obviously give rise at the present time to serious practical problems of implementation. The problems are to a large degree overcome, however, through the employment of a formula based upon population proportions on a unit basis as recommended by the Royal Commission, and here endorsed.

The rights fall into two categories:

(a) *Communication with governmental institutions*—guaranteeing the right of the individual to deal with agencies of government in either official language. It would be necessary to decide whether this should apply to all agencies—legislative, executive, and judicial—and to all governments—federal, provincial and municipal.

(b) *Education*—guaranteeing the right of the individual to education in institutions using as a medium of instruction the official language of his choice.

## 5. ECONOMIC RIGHTS

The kind of rights referred to here are those which seek to ensure some advantage to the individual and which require positive action by the state. The Universal Declaration of Human Rights, for example, included such rights as the right to work, the right to protection against unemployment, the right to form and join trade unions, the right to social security, the right to rest and leisure, the right to an adequate standard of living, the right to education, and the right to participate in the cultural life of the community. The United Nations Covenant on Economic, Social and Cultural Rights adopted by the General Assembly in 1966 included and elaborated upon these rights.

The guarantee of such economic rights is desirable and should be an ultimate objective for Canada. There are, however, good reasons for putting aside this issue at this stage and proceeding with the protection of political, legal, egalitarian and linguistic rights. It might take considerable time to reach agreement on the rights to be guaranteed and on the feasibility of implementation. The United Nations recognized these problems when it prepared two separate Covenants on Human Rights—one on Civil and Political Rights and one on Economic, Social and Cultural Rights, thus giving nations an opportunity to accede to them one at a time.

It is therefore suggested that it is advisable not to attempt to include economic rights in the constitutional bill of rights at this time.



## CHAPTER IV

### **The Form of the Charter**

The rights to be protected in the proposed constitutional bill fall broadly into one of two types:

- (i) rights which are expressed in terms of restrictions on the power of Parliament and the legislatures, and which require no enabling or implementing legislation in order to become effective (the rights described as 'political' and 'legal' fit into this category), and
- (ii) rights which in order to be fully effective must rely on the support of enabling or implementing legislation because they either anticipate sanctions for their enforcement or require positive government assistance, (the rights described as 'egalitarian' and 'linguistic' fit into this category).

In order not to be inconsistent with the present constitutional division of powers, an entrenched bill of rights must recognize that any required legislation falls within the competence of Parliament in some respects and within the competence of the provincial legislatures in others. And in order to be effective, the proposed bill must anticipate the varying rates of speed at which the various legislatures may feel able to introduce this legislation.

For these reasons it is suggested that the proposed constitutional bill of rights should assume a form which recognizes these variations, and accommodates them. The first portion of the bill could list the several political and legal rights. Two further parts could follow.

One would be concerned with egalitarian rights, the protection of which will require in most respects implementing legislation which does not now exist in all provinces. The further part would deal with linguistic rights as recommended by the Royal Commission on Bilingualism and Biculturalism.

A discussion about implementation of rights calls of necessity for a discussion as well of their limitation in time of emergency. On the occasion of war or other national crisis, western democracies have found it necessary to interfere drastically with normal private rights. No matter what the constitutional context, the courts have generally permitted this interference because they recognized the necessities of state involved. Some consideration should therefore be given at the outset to the extent to which the legislative authority of Parliament should be restored in times of emergency, and the means by which this may be accomplished.

One of three approaches might be employed: (i) some general exemption in the nature of the amendment to the War Measures Act enacted as part of the 1960 Canadian Bill of Rights; (ii) a precise specification of the several rights which may be infringed and, perhaps, to what extent (in this way the political and legal rights requiring abridgement could be dealt with while egalitarian and linguistic rights could continue unimpaired); (iii) no mention of any exemption, thus permitting the courts to determine what limitations are made necessary in times of crisis (many of the guarantees in the United States Bill of Rights are stated without qualification yet the American courts have recognized that some of them may be limited in time of war).

## APPENDIX I

### The British North America Acts, 1867 to 1965

#### FOREWORD

The law embodied in the *British North America Act, 1867* has been altered many times otherwise than by direct amendment, not only by the Parliament of the United Kingdom, but also by the Parliament of Canada and the legislatures of the provinces in those cases where provisions of the British North America Act are expressed to be subject to alteration by Parliament or the legislatures, as the case may be. A consolidation of the British North America Acts with only such subsequent enactments as directly alter the text of the Act would therefore not produce a true statement of the law.

In preparing this consolidation an attempt has been made to reflect accurately the substance of the law contained in the series of enactments known as the British North America Acts and other enactments modifying the provisions of the original *British North America Act, 1867*.

The various classes of enactments modifying the original text of the *British North America Act, 1867*, have been dealt with as follows.

#### I. DIRECT AMENDMENTS

##### 1. *Repeals*

Repealed provisions (e.g. section 2) have been deleted from the text and quoted in a footnote.

##### 2. *Amendments*

Amended provisions (e.g. section 4) are reproduced in the text in their amended form and the original provisions are quoted in a footnote.

##### 3. *Additions*

Added provisions (e.g. section 51A) are included in the text.

##### 4. *Substitutions*

Substituted provisions (e.g. section 18) are included in the text, and the former provision is quoted in a footnote.

#### II. INDIRECT AMENDMENTS

##### 1. *Alterations by United Kingdom Parliament*

Provisions altered by the United Kingdom Parliament otherwise than by direct amendment (e.g. section 21) are included in the text in their altered form, and the original provision is quoted in a footnote.

## 2. *Additions by United Kingdom Parliament*

Constitutional provisions added otherwise than by the insertion of additional provisions in the British North America Act (e.g. provisions of the *British North America, 1871* authorizing Parliament to legislate for any territory not included in a province) are not incorporated in the text, but the additional provisions are quoted in an appropriate footnote.

## 3. *Alterations by Parliament of Canada*

Provisions subject to alteration by the Parliament of Canada (e.g. section 37) have been included in the text in their altered form, wherever possible, but where this was not feasible (e.g. section 40) the original section has been retained in the text and a footnote reference made to the Act of the Parliament of Canada effecting the alteration.

## 4. *Alterations by the Legislatures*

Provisions subject to alteration by legislatures of the provinces (e.g. sections 70, 72, 83, 84) have been included in the text in their original form, but the footnotes refer to the provincial enactments effecting the alteration. Amendments to provincial enactments are not referred to; these may be readily found by consulting the indexes to provincial statutes. The enactments of the original provinces only are referred to; there are corresponding enactments by the provinces created at a later date.

## III. SPENT PROVISIONS

Footnote references are made to those sections that are spent or are probably spent. For example, section 119 became spent by lapse of time and the footnote reference so indicates; on the other hand, section 140 is probably spent, but short of examining all statutes passed before Confederation there would be no way of ascertaining definitely whether or not the section is spent; the footnote reference therefore indicates the section as being probably spent.

# THE BRITISH NORTH AMERICA ACT, 1867

30 & 31 Victoria, c. 3.

(Consolidated with amendments)

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

(29th March, 1867.)

WHEREAS the Provinces of Canada, Nova Scotia and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America: (1)

## I.—PRELIMINARY.

1. This Act may be cited as The British North America Short title.  
Act, 1867.

2. Repealed. (2)

## II.—UNION.

3. It shall be lawful for the Queen, by and with the Declaration of Union.  
Advice of Her Majesty's Most Honourable Privy Council,  
to declare by Proclamation that, on and after a Day therein

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(1) The enacting clause was repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.). It read as follows:

Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly. (3)

Construction of  
subsequent  
Provisions of  
Act.

4. Unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act. (4)

Four Provinces.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick. (5)

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(2) Section 2, repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.), read as follows:

Application  
of Provisions  
referring to  
the Queen.

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

(3) The first day of July, 1867, was fixed by proclamation dated May 22, 1867.

(4) Partially repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.). As originally enacted the section read as follows:

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

(5) Canada now consists of ten provinces (Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan and Newfoundland) and two territories (the Yukon Territory and the Northwest Territories).

The first territories added to the Union were Rupert's Land and the North-Western Territory, (subsequently designated the Northwest Territories), which were admitted pursuant to section 146 of the *British North America Act, 1867* and the *Rupert's Land Act, 1868*, 31-32 Vict., c. 105 (U.K.), by Order in Council of June 23, 1870, effective July 15, 1870. Prior to the admission of these territories the Parliament of Canada enacted the *Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada* (32-33 Vict., c. 3), and the *Manitoba Act* (33 Vict., c. 3), which provided for the formation of the Province of Manitoba.

British Columbia was admitted into the Union pursuant to section 146 of the *British North America Act, 1867*, by Order in Council of May 16, 1871, effective July 20, 1871.

Prince Edward Island was admitted pursuant to section 146 of the *British North America Act, 1867*, by Order in Council of June 26, 1873, effective July 1, 1873.

On June 29, 1871, the United Kingdom Parliament enacted the *British North America Act, 1871* (34-35 Vict., c. 28) authorizing the creation of additional provinces out of territories not included in any province. Pursuant to this statute, the Parliament of Canada enacted *The Alberta Act*, (July 20, 1905, 4-5 Edw. VII, c. 3) and *The Saskatchewan Act*, (July 20, 1905, 4-5 Edw. VII, c. 42), providing for the creation of the provinces of Alberta and Saskatchewan respectively. Both these Acts came into force on Sept. 1, 1905.

Meanwhile, all remaining British possessions and territories in North America and the islands adjacent thereto, except the colony of Newfoundland and its

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of  
Ontario and  
Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

Provinces of  
Nova Scotia  
and New  
Brunswick.

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

Decennial  
Census.

### III.—EXECUTIVE POWER.

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Declaration  
of Executive  
Power in  
the Queen.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

Application of  
Provisions  
referring to  
Governor  
General.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

Constitution of  
Privy Council  
for Canada.

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dependencies, were admitted into the Canadian Confederation by Order in Council dated July 31, 1880.

The Parliament of Canada added portions of the Northwest Territories to the adjoining provinces in 1912 by *The Ontario Boundaries Extension Act*, 2 Geo. V, c. 40, *The Quebec Boundaries Extension Act*, 1912, 2 Geo. V, c. 45, and *The Manitoba Boundaries Extension Act*, 1912, 2 Geo. V, c. 32, and further additions were made to Manitoba by *The Manitoba Boundaries Extension Act*, 1930, 20-21 Geo. V, c. 28.

The Yukon Territory was created out of the Northwest Territories in 1898 by *The Yukon Territory Act*, 61 Vict., c. 6, (Canada).

Newfoundland was added on March 31, 1949, by the *British North America Act*, 1949, (U.K.), 12-13 Geo. VI, c. 22, which ratified the Terms of Union between Canada and Newfoundland.

All Powers under Acts to be exercised by Governor General with Advice of Privy Council, or alone.

**12.** All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Member thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada. (6)

Application of Provisions referring to Governor General in Council.

**13.** The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Power to Her Majesty to authorize Governor General to appoint Deputies.

**14.** It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority or Function.

Command of armed Forces to continue to be vested in the Queen.

**15.** The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

**16.** Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa. Seat of Government of Canada.

#### IV.—LEGISLATIVE POWER.

**17.** There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons. Constitution of Parliament of Canada.

**18.** The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof. (7) Privileges, etc., of Houses.

**19.** The Parliament of Canada shall be called together not later than Six Months after the Union. (8) First Session of the Parliament of Canada.

**20.** There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session. (9) Yearly Session of the Parliament of Canada.

#### *The Senate.*

**21.** The Senate shall, subject to the Provisions of this Act, consist of One Hundred and Two Members, who shall be styled Senators. (10) Number of Senators.

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(6) See the notes to section 129, *infra*.

(7) Repealed and re-enacted by the *Parliament of Canada Act, 1875, 38-39 Vict., c. 38 (U.K.)*. The original section read as follows:

18. The Privileges Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

(8) Spent. The first session of the first Parliament began on November 6, 1867.

(9) The term of the twelfth Parliament was extended by the *British North America Act, 1916, 6-7 Geo. V, c. 19 (U.K.)*, which Act was repealed by the *Statute Law Revision Act, 1927, 17-18 Geo. V, c. 42 (U.K.)*.

(10) As amended by the *British North America Act, 1915, 5-6 Geo. V, c. 45 (U.K.)*, and modified by the *British North America Act, 1949, 12-13 Geo. VI, c. 22 (U.K.)*.

**22.** In relation to the Constitution of the Senate Canada shall be deemed to consist of Four Divisions:—

1. Ontario;
2. Quebec;
3. The Maritime Provinces, Nova Scotia and New Brunswick, and Prince Edward Island;
4. The Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta;

which Four Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta; Newfoundland shall be entitled to be represented in the Senate by six members.

In the Case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated statutes of Canada. (11)

The original section read as follows:

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

The *Manitoba Act* added two for Manitoba; the Order in Council admitting British Columbia added three; upon admission of Prince Edward Island four more were provided by section 147 of the *British North America Act, 1867*; The *Alberta Act* and The *Saskatchewan Act* each added four. The Senate was reconstituted at 96 by the *British North America Act, 1915*, and six more Senators were added upon union with Newfoundland.

(11) As amended by the *British North America Act, 1915*, and the *British North America Act, 1949*, 12-13 Geo. VI, c. 22 (U.K.). The original section read as follows:

Representation  
of Provinces  
in Senate.

**22.** In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:

1. Ontario;
  2. Quebec;
  3. The Maritime Provinces, Nova Scotia and New Brunswick;
- which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the Case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.

**23.** The Qualification of a Senator shall be as follows: Qualifications of Senator.

- (1) He shall be of the full age of Thirty Years:
- (2) He shall be either a natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada, after the Union:
- (3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in Free and Common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alieu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:
- (4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:
- (5) He shall be resident in the Province for which he is appointed:
- (6) In the Case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

**24.** The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator. Summons of Senator.

**25.** Repealed. (12)

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(12) Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.).  
The section read as follows:

Summons of  
First Body  
of Senators.

25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.

Addition of  
Senators in  
certain cases.

**26.** If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Four or Eight Members be added to the Senate, the Governor General may by Summons to Four or Eight qualified Persons (as the Case may be), representing equally the Four Divisions of Canada, add to the Senate accordingly. (13)

Reduction of  
Senate to  
normal Number.

**27.** In case of such Addition being at any Time made, the Governor General shall not summon any Person to the Senate, except upon a further like Direction by the Queen on the like Recommendation, to represent one of the Four Divisions until such Division is represented by Twenty-four Senators and no more. (14)

Maximum  
Number of  
Senators.

**28.** The Number of Senators shall not at any Time exceed One Hundred and ten. (15)

Tenure of  
Place in  
Senate.

**29.** (1) Subject to subsection (2), a Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

Retirement  
upon attain-  
ing age of  
seventy-five  
years.

(2) A Senator who is summoned to the Senate after the coming into force of this subsection shall, subject to this Act, hold his place in the Senate until he attains the age of seventy-five years. (15A)

Resignation  
of Place in  
Senate.

**30.** A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Disqualification  
of Senators.

**31.** The Place of a Senator shall become vacant in any of the following Cases:

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(13) As amended by the *British North America Act, 1915*, 5-6 Geo. V, c. 45 (U.K.). The original section read as follows:

Addition of  
Senators in  
certain cases.

**26.** If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by Summons to Three or Six qualified Persons (as the Case may be), representing equally the Three Divisions of Canada, add to the Senate accordingly.

(14) As amended by the *British North America Act, 1915*, 5-6 Geo. V, c. 45 (U.K.). The original section read as follows:

Reduction of  
Senate to  
normal  
Number.

**27.** In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of Canada is represented by Twenty-four Senators and no more.

(15) As amended by the *British North America Act, 1915*, 5-6 Geo. V, c. 45 (U.K.). The original section read as follows:

Maximum  
Number of  
Senators.

**28.** The Number of Senators shall not at any Time exceed Seventy-eight.

(15A) As enacted by the *British North America Act, 1965*, Statutes of Canada, 1965, c. 4 which came into force on the 1st of June, 1965. The original section read as follows:

Tenure of  
Place in  
Senate.

**29.** A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

(16) Provision for exercising the functions of Speaker during his absence is made by the *Speaker of the Senate Act*, R.S.C. 1952, c. 255. Doubts as to the power of Parliament to enact such an Act were removed by the *Canadian Speaker (Appointment of Deputy) Act, 1895*, 59 Vict., c. 3, (U.K.).

- (1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:
- (2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:
- (3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:
- (4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:
- (5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

**32.** When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy. Summons on Vacancy in Senate.

**33.** If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate. Questions as to Qualifications and Vacancies in Senate.

**34.** The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead. (16) Appointment of Speaker of Senate.

**35.** Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers. Quorum of Senate.

**36.** Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative. Voting in Senate.

### *The House of Commons.*

**37.** The House of Commons shall, subject to the Provisions of this Act, consist of Two Hundred and sixty-five Members of whom Eighty-five shall be elected for Ontario, Constitution of House of Commons in Canada.

Seventy-five for Quebec, Twelve for Nova Scotia, Ten for New Brunswick, Fourteen for Manitoba, Twenty-two for British Columbia, Four for Prince Edward Island, Seventeen for Alberta, Seventeen for Saskatchewan, Seven for Newfoundland, One for the Yukon Territory and One for the Northwest Territories. (17)

Summoning of  
House of  
Commons.

**38.** The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Senators not  
to sit in House  
of Commons.

**39.** A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

Electoral  
districts of  
the Four  
Provinces.

**40.** Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:

#### 1.—ONTARIO.

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

#### 2.—QUEBEC.

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

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(17) As altered by the *Representation Act*, R.S.C. 1952, c. 334, as amended by S.C. 1962, c. 17. The original section read as follows:

**37.** The House of Commons shall, subject to the Provisions of this Act, consist of the One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.

See now the *Electoral Boundaries Readjustment Act*, Statutes of Canada, 1964-65, c. 31.

### 3.—NOVA SCOTIA.

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

### 4.—NEW BRUNSWICK.

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member. (18)

**41.** Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Continuance of existing Election Laws until Parliament of Canada otherwise provides.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every Male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote. (19)

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(18) Spent. The electoral districts are now set out in the *Representation Act*, R.S.C. 1952, c. 334, as amended. See also the *Electoral Boundaries Readjustment Act*, Statutes of Canada, 1964-65, c. 31.

(19) Spent. Elections are now provided for by the *Canada Elections Act*, S.C. 1960, c. 38; controverted elections by the *Dominion Controverted Elections Act*, R.S.C. 1952, c. 87; qualifications and disqualifications of members by the *House of Commons Act*, R.S.C. 1952, c. 143 and the *Senate and House of Commons Act*, R.S.C. 1952, c. 249.

**42. Repealed. (20)**

**43. Repealed. (21)**

As to Election  
of Speaker of  
House of  
Commons.

**44.** The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

As to filling  
up Vacancy  
in Office of  
Speaker.

**45.** In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

Speaker to  
preside.

**46.** The Speaker shall preside at all Meetings of the House of Commons.

Provision in  
case of Absence  
of Speaker.

**47.** Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a Period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker. (22)

Quorum of  
House  
of Commons.

**48.** The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers, and for that Purpose the Speaker shall be reckoned as a Member.

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(20) Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.).  
The section read as follows:

Writs for First  
Election.

**42.** For the First Election of Members to serve in the House of Commons the Governor General shall cause Writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

(21) Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.).  
The section read as follows:

As to Casual  
Vacancies.

**43.** In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such vacant District.

(22) Provision for exercising the functions of Speaker during his absence is now made by the *Speaker of the House of Commons Act, R.S.C. 1952, c. 254*.

**49.** Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote. Voting in House of Commons.

**50.** Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer. Duration of House of Commons.

**51.** (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules: Readjustment of representation in Commons.

1. There shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and sixty-one and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division. Rules.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and sixty-one, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and sixty-one.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purposes of com-

puting the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and sixty-one shall be reduced by the number of members assigned to such province pursuant to rule three.

5. On any such readjustment the number of members for any province shall not be reduced by more than fifteen per cent below the representation to which such province was entitled under rules one to four of this subsection at the last preceding readjustment of the representation of that province, and there shall be no reduction in the representation of any province as a result of which that province would have a smaller number of members than any other province that according to the results of the then last decennial census did not have a larger population; but for the purposes of any subsequent readjustment of representation under this section any increase in the number of members of the House of Commons resulting from the application of this rule shall not be included in the divisor mentioned in rules one to four of this subsection.

6. Such readjustment shall not take effect until the termination of the then existing Parliament.

**Yukon Territory and other part not comprised within a province.**

(2) The Yukon Territory as constituted by chapter forty-one of the statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province as may from time to time be defined by the Parliament of Canada shall be entitled to one member. (23)

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(23) As enacted by the *British North America Act, 1952*, R.S.C. 1952, c. 304, which came into force on June 18, 1952. The section, as originally enacted, read as follows:

**Decennial Re-adjustment of Representation.**

51. On the Completion of the Census in the Year One Thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be re-adjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:

- (1) Quebec shall have the fixed Number of Sixty-five Members:
- (2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):
- (3) In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half of the whole Number requisite for entitling the Province to a Member shall be disre-

garded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:

- (4) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:
- (5) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

The section was amended by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.) by repealing the words from "of the census" to "seventy-one and" and the word "subsequent".

By the *British North America Act, 1943*, 6-7 Geo. VI, c. 30 (U.K.) redistribution of seats following the 1941 census was postponed until the first session of Parliament after the war. The section was re-enacted by the *British North America Act, 1946*, 9-10 Geo. VI, c. 63 (U.K.) to read as follows:

51. (1) The number of members of the House of Commons shall be two hundred and fifty-five and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:—

- (1) Subject as hereinafter provided, there shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and fifty-four and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.
- (2) If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and fifty-four, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and fifty-four.
- (3) Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.
- (4) In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and fifty-four shall be reduced by the number of members assigned to such province pursuant to rule three.
- (5) Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member.

Constitution  
of House of  
Commons.

**51A.** Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province. (24)

Increase of  
Number of  
House of  
Commons.

**52.** The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

*Money Votes; Royal Assent.*

Appropriation  
and Tax Bills.

**53.** Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Recommendation  
of Money  
Votes.

**54.** It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Royal Assent  
to Bills, etc.

**55.** Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

Disallowance  
by Order in  
Council of Act  
assented to  
by Governor  
General.

**56.** Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

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(24) As enacted by the *British North America Act, 1915*, 5-6 Geo. V, c. 45 (U.K.).

**57.** A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until, within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

Signification  
of Queen's  
Pleasure on  
Bill reserved.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.

## V.—PROVINCIAL CONSTITUTIONS.

### *Executive Power.*

**58.** For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

Appointment of  
Lieutenant  
Governors of  
Provinces.

**59.** A Lieutenant Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removeable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

Tenure of  
Office of  
Lieutenant  
Governor.

**60.** The Salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada. (25)

Salaries of  
Lieutenant  
Governors.

**61.** Every Lieutenant Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him Oaths of Allegiance and Office similar to those taken by the Governor General.

Oaths, etc.,  
of Lieutenant  
Governor.

**62.** The Provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the Time being of each Province, or other the

Application of  
provisions  
referring to  
Lieutenant  
Governor.

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(25) Provided for by the *Salaries Act*, R.S.C. 1952, c. 243 as amended by S.C. 1963, c. 41.

Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

Appointment of  
Executive  
Officers for  
Ontario and  
Quebec.

**63.** The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec the Speaker of the Legislative Council and the Solicitor General. (26)

Executive  
Government of  
Nova Scotia and  
New Brunswick.

**64.** The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act. (26A)

Powers to be  
exercised by  
Lieutenant  
Governor of  
Ontario or  
Quebec with  
Advice, or  
alone.

**65.** All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the

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(26) Now provided for in Ontario by the *Executive Council Act*, R.S.O. 1960, c. 127, and in Quebec by the *Executive Power Act*, R.S.Q. 1964, c. 9.

(26A) A similar provision was included in each of the instruments admitting British Columbia, Prince Edward Island, and Newfoundland. The Executive Authorities for Manitoba, Alberta and Saskatchewan were established by the statutes creating those provinces. See the footnotes to section 5, *supra*.

United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec. (27)

**66.** The Provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the Advice of the Executive Council thereof.

Application of Provisions referring to Lieutenant Governor in Council.

**67.** The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability.

Administration in Absence, etc., of Lieutenant Governor.

**68.** Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Seats of Provincial Governments.

### *Legislative Power.*

#### 1.—ONTARIO.

**69.** There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

Legislature for Ontario.

**70.** The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act. (28)

Electoral districts.

#### 2.—QUEBEC.

**71.** There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Legislature for Quebec.

**72.** The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, One being appointed to represent

Constitution of Legislative Council.

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(27) See the notes to section 129, *infra*.

(28) Spent. Now covered by the *Representation Act*, R.S.O. 1960, c. 353, as amended by S.O. 1962-63, c. 125, which provides that the Assembly shall consist of 108 members, representing the electoral districts set forth in the Schedule to that Act.

each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act. (29)

Qualification  
of Legislative  
Councillors.

**73.** The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec. (30)

Resignation,  
Disqualifica-  
tion, etc.

**74.** The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis*, in which the Place of Senator becomes vacant.

Vacancies.

**75.** When a Vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

Questions as  
to Vacancies,  
etc.

**76.** If any Question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Speaker of  
Legislative  
Council.

**77.** The Lieutenant Governor may from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his Stead. (31)

Quorum of  
Legislative  
Council.

**78.** Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

Voting in  
Legislative  
Council.

**79.** Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

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(29) Spent. Now covered by the *Legislature Act*, R.S.Q. 1964, c. 6 as amended by S.Q. 1965, c. 11; the membership remains at twenty-four, representing the divisions set forth in the *Territorial Division Act*, R.S.Q. 1964, c. 5, as amended by S.Q. 1965, c. 12.

(30) Altered by the *Legislature Act*, R.S.Q. 1964, c. 6, s. 7, which provides that it shall be sufficient for any member to be domiciled, and to possess his property qualifications, within the Province of Quebec.

(31) Spent. Now covered by the *Legislature Act*, R.S.Q. 1964, c. 6.

**80.** The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed. (32)

Constitution  
of Legislative  
Assembly of  
Quebec.

### 3.—ONTARIO AND QUEBEC.

#### **81.** Repealed. (33)

**82.** The Lieutenant Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

Summoning of  
Legislative  
Assemblies.

**83.** Until the Legislature of Ontario or of Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or Profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown

Restriction on  
election of  
Holders of  
offices.

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(32) Altered by the *Legislature Act*, R.S.Q. 1964, c. 6 as amended by S.Q. 1965, c. 11 and the *Territorial Division Act*, R.S.Q. 1964, c. 5 as amended by S.Q. 1965, c. 10; there are now 108 members representing the districts set out in the *Territorial Division Act*.

(33) Repealed by the *Statute Law Revision Act*, 1893, 56-57 Vict., c. 14 (U.K.). The section read as follows:

First Session      81. The Legislatures of Ontario and Quebec respectively shall be of Legislatures. called together not later than Six Months after the Union.

Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office. (34)

Continuance of  
existing  
Election Laws.

**84.** Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that, until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a vote. (35)

Duration of  
Legislative  
Assemblies.

**85.** Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer. (36)

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(34) Probably spent. The subject-matter of this section is now covered in Ontario by the *Legislative Assembly Act*, R.S.O. 1960, c. 208, and in Quebec by the *Legislature Act*, R.S.Q. 1964, c. 6.

(35) Probably spent. The subject-matter of this section is now covered in Ontario by the *Election Act*, R.S.O. 1960, c. 118, the *Controverted Elections Act*, R.S.O. 1960, c. 65 and the *Legislative Assembly Act*, R.S.O. 1960, c. 208, in Quebec by the *Elections Act*, R.S.Q. 1964, c. 7, the *Provincial Controverted Elections Act*, R.S.Q. 1964, c. 8 and the *Legislature Act*, R.S.Q. 1964, c. 6.

(36) The maximum duration of the Legislative Assembly for Ontario and Quebec has been changed to five years by the *Legislative Assembly Act*, R.S.O. 1960, c. 208, and the *Legislature Act*, R.S.Q. 1964, c. 6 respectively.

**86.** There shall be a Session of the Legislature of Ontario and of that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

Yearly Session  
of Legislature.

**87.** The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the Absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

Speaker,  
Quorum, etc.

#### 4.—NOVA SCOTIA AND NEW BRUNSWICK.

**88.** The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act. (37)

Constitutions of  
Legislatures of  
Nova Scotia and  
New Brunswick

**89.** Repealed. (38)

#### 6.—THE FOUR PROVINCES.

**90.** The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor

Application to  
Legislatures of  
Provisions  
respecting  
Money Votes,  
etc.

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(37) Partially repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.) which deleted the following concluding words of the original enactment:

and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the Period for which it was elected.

A similar provision was included in each of the instruments admitting British Columbia, Prince Edward Island, and Newfoundland. The Legislatures of Manitoba, Alberta and Saskatchewan were established by the statutes creating those provinces. See the footnotes to section 5, *supra*.

(38) Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.). The section read as follows:

General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

## VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

### *Powers of the Parliament.*

Legislative  
Authority of  
Parliament of  
Canada.

**91.** It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next herein-after enumerated; that is to say,—

1. The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House: provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such House. (39)

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#### 5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First  
Elections.

89. Each of the Lieutenant Governors of Ontario, Quebec and Nova Scotia shall cause Writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor General directs, and so that the First Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.

(39) Added by the *British North America (No. 2) Act, 1949*, 13 Geo. VI, c. 81 (U.K.).

- 1A. The Public Debt and Property. (40)
2. The Regulation of Trade and Commerce.
- 2A. Unemployment insurance. (41)
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.

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(40) Re-numbered by the *British North America (No. 2) Act, 1949*.

(41) Added by the *British North America Act, 1940*, 3-4 Geo. VI, c. 36 (U.K.).

29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces. (42)

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(42) Legislative authority has been conferred on Parliament by other Acts as follows:

1. The *British North America Act, 1871*, 34-35 Vict., c. 28 (U.K.).

Parliament of Canada may establish new Provinces and provide for the constitution etc., thereof.

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.

Alteration of limits of Provinces.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament of Canada may legislate for any territory not included in a Province.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Confirmation of Acts of Parliament of Canada, 32 & 33 Vict. (Canadian) cap. 3. 33 Vict., (Canadian) cap. 3.

5. The following Acts passed by the said Parliament of Canada, and intitled respectively,—“An Act for the temporary government of Rupert's Land and the North Western Territory when united with Canada”; and “An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of “the Province of Manitoba,” shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen's name, of the Governor General of the said Dominion of Canada.”

Limitation of powers of Parliament of Canada to legislate for an established Province.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

The *Rupert's Land Act, 1868*, 31-32 Vict., c. 105 (U.K.) (repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.)) had previously conferred similar authority in relation to Rupert's Land and the North-Western Territory upon admission of those areas.

2. The *British North America Act, 1886*, 49-50 Vict., c. 35, (U.K.).

Provision by Parliament of Canada for representation of territories.

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

### *Exclusive Powers of Provincial Legislatures.*

**92.** In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subject next herein-after enumerated; that is to say,—

Subjects of  
exclusive  
Provincial  
Legislation.

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
  - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Under-

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3. The *Statute of Westminster, 1931, 22 Geo. V. c. 4, (U.K.).*

Power of Parliament of a Dominion to legislate extra-territorially. 3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

takings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province;

- (b) Lines of Steam Ships between the Province and any British or Foreign Country;
  - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial Objects.
  12. The Solemnization of Marriage in the Province.
  13. Property and Civil Rights in the Province.
  14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
  15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
  16. Generally all Matters of a merely local or private Nature in the Province.

### *Education.*

Legislation  
respecting  
Education.

**93.** In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

- (1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
- (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the

same are hereby extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

- (3) Where in any Province a System of Separate or Dissident Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
- (4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section. (43)

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(43) Altered for Manitoba by section 22 of the *Manitoba Act*, 33 Vict., c. 3 (Canada), (confirmed by the *British North America Act*, 1871), which reads as follows:

Legislation touching schools subject to certain provisions.

22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:—

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union:

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege, of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

Power reserved to Parliament.

(3) In case any such Provincial Law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

Altered for Alberta by section 17 of *The Alberta Act*, 4-5 Edw. VII, c. 3 which reads as follows:

Education.

17. Section 93 of *The British North America Act*, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93 of the following paragraph:—

*Uniformity of Laws in Ontario, Nova Scotia and  
New Brunswick.*

Legislation for  
Uniformity of  
Laws in Three  
Provinces.

**94.** Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph 3 of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30, and where the expression "at the Union" is employed, in the said paragraph 3, it shall be held to mean the date at which this Act comes into force."

Altered for Saskatchewan by section 17 of *The Saskatchewan Act*, 4-5 Edw. VII, c. 42, which reads as follows:

Education.

17. Section 93 of the British North America Act, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:—

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression "at the Union" is employed in the said paragraph (3), it shall be held to mean the date at which this Act comes into force.

Altered by Term 17 of the Terms of Union of Newfoundland with Canada (confirmed by the *British North America Act*, 1949, 12-13 Geo. VI, c. 22 (U.K.)), which reads as follows:

17. In lieu of section ninety-three of the British North America Act, 1867, the following term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland, provided for education,

- (a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and
- (b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in Those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

### *Old Age Pensions.*

**94A.** The Parliament of Canada may make laws in relation to old age pensions and supplementary benefits, including survivors' and disability benefits irrespective of age, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter. (44)

Legislation respecting old age pensions and supplementary benefits.

### *Agriculture and Immigration.*

**95.** In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Concurrent Powers of Legislation respecting Agriculture, etc.

### VIII.—JUDICATURE.

**96.** The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Appointment of Judges.

**97.** Until the laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Ontario, etc.

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(44) Added by the *British North America Act, 1964*, 12-13, Eliz. II, c. 73 (U.K.). Originally enacted by the *British North America Act, 1951*, 14-15 Geo. VI, c. 32 (U.K.), as follows:

"94A. It is hereby declared that the Parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the Parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a Provincial Legislature in relation to old age pensions."

Selection of  
Judges in  
Quebec.

**98.** The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Tenure of  
office of  
Judges.

**99.** (1) Subject to subsection two of this section, the Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

Termination  
at age 75.

(2) A Judge of a Superior Court, whether appointed before or after the coming into force of this section, shall cease to hold office upon attaining the age of seventy-five years, or upon the coming into force of this section if at that time he has already attained that age. (44A)

Salaries etc.,  
of Judges.

**100.** The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada. (45)

General Court  
of Appeal, etc.

**101.** The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada. (46)

#### VIII.—REVENUES; DEBTS; ASSETS; TAXATION.

Creation of  
Consolidated  
Revenue Fund.

**102.** All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such Portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

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(44A) Repealed and re-enacted by the *British North America Act, 1960*, 9 Eliz. II, c. 2 (U.K.), which came into force on the 1st day of March, 1961. The original section read as follows:

Tenure of  
office of  
Judges of  
Superior  
Courts.

99. The Judges of the Superior Courts shall hold Office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

(45) Now provided for in the *Judges Act*, R.S.C. 1952, c. 159, as amended by S.C. 1963, c. 8, 1964-65, c. 36 and 1966-67, c. 76.

(46) See the *Supreme Court Act*, R.S.C. 1952, c. 259, and the *Exchequer Court Act*, R.S.C. 1952, c. 98.

**103.** The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the First Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Expenses of  
Collection, etc.

**104.** The annual Interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

Interest of  
Provincial  
Public Debts.

**105.** Unless altered by the Parliament of Canada, the Salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon. (47)

Salary of  
Governor  
General.

**106.** Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service.

Appropriation  
from Time to  
Time.

**107.** All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the Time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the Amount of the respective Debts of the Provinces at the Union.

Transfer of  
Stocks, etc.

**108.** The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

Transfer of  
Property in  
Schedule.

**109.** All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same. (48)

Property in  
Lands, Mines,  
etc.

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(47) Now covered by the *Governor General's Act*, R.S.C. 1952, c. 139.

(48) The four western provinces were placed in the same position as the original provinces by the *British North America Act*, 1930, 21 Geo. V, c. 26 (U.K.).

Assets  
connected with  
Provincial  
Debts.

**110.** All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

Canada to be  
liable for  
Provincial  
Debts.

**111.** Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

Debts of  
Ontario and  
Quebec.

**112.** Ontario and Quebec conjointly shall be liable to Canada for the Amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Assets of  
Ontario and  
Quebec.

**113.** The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the Property of Ontario and Quebec conjointly.

Debt of  
Nova Scotia.

**114.** Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon. (49)

Debt of New  
Brunswick.

**115.** New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Payment of  
interest to Nova  
Scotia and New  
Brunswick.

**116.** In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively, they shall respectively receive by half-yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

Provincial  
Public  
Property.

**117.** The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

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(49) The obligations imposed by this section, sections 115 and 116, and similar obligations under the instruments creating or admitting other provinces, have been carried into legislation of the Parliament of Canada and are now to be found in the *Provincial Subsidies Act*, R.S.C. 1952, c. 221.

## 118. Repealed. (50)

(50) Repealed by the *Statute Law Revision Act, 1950*, 14 Geo. VI, c. 6 (U.K.). As originally enacted, the section read as follows:

Grants to  
Provinces.

118. The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:

	Dollars
Ontario .....	Eighty thousand.
Quebec .....	Seventy thousand.
Nova Scotia .....	Sixty thousand.
New Brunswick .....	Fifty thousand.

Two hundred and sixty thousand;

and an annual Grant in aid of each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.

The section was made obsolete by the *British North America Act, 1907*, 7 Edw. VII, c. 11 (U.K.) which provided:

Payments  
to be made  
by Canada to  
provinces.

1. (1) The following grants shall be made yearly by Canada to every province, which at the commencement of this Act is a province of the Dominion, for its local purposes and the support of its Government and Legislature:—

(a) A fixed grant—

where the population of the province is under one hundred and fifty thousand, of one hundred thousand dollars;

where the population of the province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars;

where the population of the province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars;

where the population of the province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars;

where the population of the province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars;

where the population of the province exceeds one million five hundred thousand, of two hundred and forty thousand dollars; and

(b) Subject to the special provisions of this Act as to the provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

(2) An additional grant of one hundred thousand dollars shall be made yearly to the province of British Columbia for a period of ten years from the commencement of this Act.

(3) The population of a province shall be ascertained from time to time in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other province by the last decennial census for the time being.

(4) The grants payable under this Act shall be paid half-yearly in advance to each province.

(5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several provinces of the Dominion under the provisions of section one hundred and eighteen of the *British North America Act 1867*, or of any Order in Council establishing a province, or of any Act of the Parliament of Canada containing directions for the payment of

30-31 Vict., c. 3.

Further Grant  
to New  
Brunswick.

**119.** New Brunswick shall receive by half-yearly Payments in advance from Canada for the Period of Ten Years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the Interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars. (51)

Form of  
Payments.

**120.** All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council.

Canadian  
Manufactures,  
etc.

**121.** All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance of  
Customs and  
Excise Laws.

**122.** The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada. (52)

Exportation and  
Importation as  
between Two  
Provinces.

**123.** Where Customs Duties are, at the Union, leviable on any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces

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any such grant or subsidy, and those provisions shall cease to have effect.

(6) The Government of Canada shall have the same power of deducting sums charged against a province on account of the interest on public debt in the case of the grant payable under this Act to the province as they have in the case of the existing grant.

(7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any province any grant which is payable to that province, other than the existing grant for which the grant under this Act is substituted.

(8) In the case of the provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act, and if it is found on any decennial census that the population of the province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

See the *Provincial Subsidies Act*, R.S.C. 1952, c. 221, *The Maritime Provinces Additional Subsidies Act*, 1942-43, c. 14, and the Terms of Union of Newfoundland with Canada, appended to the *British North America Act*, 1949, and also to *An Act to approve the Terms of Union of Newfoundland with Canada*, chapter 1 of the statutes of Canada, 1949.

(51) Spent.

(52) Spent. Now covered by the *Customs Act*, R.S.C. 1952, c. 58, the *Customs Tariff*, R.S.C. 1952, c. 60, the *Excise Act*, R.S.C. 1952, c. 99 and the *Excise Tax Act*, R.S.C. 1952, c. 100.

into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation. (53)

**124.** Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues. (54)

Lumber Dues in New Brunswick.

**125.** No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

Exemption of Public Lands, etc.

**126.** Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

Provincial Consolidated Revenue Fund.

## IX.—MISCELLANEOUS PROVISIONS.

### *General.*

**127.** Repealed. (55)

**128.** Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor General, or some

Oath of Allegiance, etc.

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(53) Spent.

(54) These dues were repealed in 1873 by 36 Vict., c. 16 (N.B.). And see *An Act respecting the Export Duties imposed on Lumber, etc.*, (1873) 36 Vict., c. 41 (Canada), and section 2 of the *Provincial Subsidies Act*, R.S.C. 1952, c. 221.

Person authorized by him, the Declaration of Qualification contained in the same Schedule.

Continuance of  
existing Laws,  
Courts,  
Officers, etc.

**129.** Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act. (56)

Transfer of  
Officers to  
Canada.

**130.** Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made. (57)

Appointment of  
new Officers.

**131.** Until the Parliament of Canada otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

Treaty  
Obligations.

**132.** The Parliament and Government of Canada shall have all Powers necessary or proper for performing the

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(55) Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.).

The section read as follows:

As to Legislative  
Councillors of  
Provinces  
becoming  
senators.

**127.** If any Person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate, shall thereby vacate his Seat in such Legislative Council.

(56) The restriction against altering or repealing laws enacted by or existing under statutes of the United Kingdom was removed by the *Statute of Westminster, 1931*, 22 Geo. V, c. 4 (U.K.).

(57) Spent.

Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

**133.** Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

Use of English  
and French  
Languages

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

#### *Ontario and Quebec.*

**134.** Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General, and may, by Order of the Lieutenant Governor in Council, from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof, and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof. (58)

Appointment  
of Executive  
Officers for  
Ontario and  
Quebec.

**135.** Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture

Powers, Duties,  
etc. of  
Executive  
Officers.

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(58) Spent. Now covered in Ontario by the *Executive Council Act*, R.S.O. 1960, c. 127 and in Quebec by the *Executive Power Act*, R.S.Q. 1964, c. 9 as amended by 1965, c. 16.

and Receiver General, by any Law, Statute, or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works. (59)

**Great Seals.**

**136.** Until altered by the Lieutenant Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

**Construction of temporary Acts.**

**137.** The words "and from thence to the End of the then next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada if the Subject Matter of the Act is within the Powers of the same as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

**As to Errors in Names.**

**138.** From and after the Union the Use of the Words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

**As to issue of Proclamations before Union, to commence after Union.**

**139.** Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several Matters and Things therein proclaimed, shall be and continue of like Force and Effect as if the Union had not been made. (60)

**As to issue of Proclamations after Union.**

**140.** Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower

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(59) Probably spent.

(60) Probably spent.

Canada, and which is not issued before the Union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made. (61)

**141.** The Penitentiary of the Province of Canada shall, Penitentiary. until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec. (62)

**142.** The Division and Adjustment of the Debts, Arbitration respecting Debts, etc. Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec. (63)

**143.** The Governor General in Council may from Time Division of Records. to Time order that such and so many of the Records, Books, and Documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence. (64)

**144.** The Lieutenant Governor of Quebec may from Constitution of Townships in Quebec. Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a Day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

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(61) Probably spent.

(62) Spent. Penitentiaries are now provided for by the *Penitentiary Act*, S.C. 1960-61, c. 53.

(63) Spent. See pages (xi) and (xii) of the Public Accounts, 1902-03.

(64) Probably spent. Two orders were made under this section on the 24th of January, 1868.

145. Repealed. (65)

XI.—ADMISSION OF OTHER COLONIES

Power to admit  
Newfoundland,  
etc., into  
the Union.

**146.** It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland. (66)

As to Represent-  
ation of  
Newfoundland  
and Prince  
Edward Island  
in Senate.

**147.** In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the Third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Bruns-

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(65) Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14, (U.K.).

The section reads as follows:

X.—INTERCOLONIAL RAILWAY.

Duty of  
Government  
and Parliament  
of Canada to  
make Railway  
herein  
described.

**145.** Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement, within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

(66) All territories mentioned in this section are now part of Canada. See the notes to section 5, *supra*.

wick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen. (67)

## SCHEDULES

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### THE FIRST SCHEDULE. (68)

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#### *Electoral Districts of Ontario.*

##### A.

#### EXISTING ELECTORAL DIVISIONS.

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##### COUNTIES.

- |               |                   |
|---------------|-------------------|
| 1. Prescott.  | 6. Carleton.      |
| 2. Glengarry. | 7. Prince Edward. |
| 3. Stormont.  | 8. Halton.        |
| 4. Dundas.    | 9. Essex.         |
| 5. Russell.   |                   |

##### RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan).
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.

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(67) Spent. See the notes to sections 21, 22, 26, 27 and 28, *supra*.

(68) Spent. *Representation Act, 1966*, Statutes of Ontario 1966, c. 137.

23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

#### CITIES, PARTS OF CITIES, AND TOWNS.

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara, thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

#### B.

#### NEW ELECTORAL DISTRICTS.

44. The Provisional Judicial District of ALGOMA.

The County of BRUCE, divided into Two Ridings, to be called respectively the North and South Ridings:—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albermarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross; and Carrick.

The County of HURON, divided into Two Ridings, to be called respectively the North and South Ridings:—

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.
50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.

(The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.)

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.
52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.
53. The County of BOWWELL to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of GREY, divided into Two Ridings, to be called respectively the South and North Ridings:—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH, divided into Two Ridings, to be called respectively the South and North Ridings:—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Mary's.

The County of WELLINGTON, divided into Three Ridings, to be called respectively North, South and Centre Ridings:—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.

59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.
60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of **NORFOLK**, divided into Two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of **HALDIMAND** to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole, and Dunn.
64. The County of **MONCK** to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).
65. The County of **LINCOLN** to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.
66. The County of **WELLAND** to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
67. The County of **PEEL** to consist of the Townships of Chinguaousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
68. The County of **CARDWELL** to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of **SIMCOE**, divided into Two Ridings, to be called respectively the South and North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.
70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings:—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings:—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into Three Ridings, to be called respectively the West, East, and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.
78. The County of LENNOX, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town, and Amherst Island, and the Village of Napanee.
79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.
80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of RENFREW, divided into two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.
82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algoma, North Algoma, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying Northwesterly of the said North Riding.

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Every Town and incorporated Village existing at the Union, not especially mentioned in this Schedule, is to be taken as Part of the County or Riding within which it is locally situate.

#### THE SECOND SCHEDULE.

*Electoral Districts of Quebec specially fixed.*

##### COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and
Argenteuil.	Shefford.	Richmond.
Huntingdon.	Stanstead.	Megantic.

Town of Sherbrooke.

#### THE THIRD SCHEDULE.

*Provincial Public Works and Property to be the Property of Canada.*

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislature and Governments.

9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

#### THE FOURTH SCHEDULE.

*Assets to be the Property of Ontario and Quebec conjointly.*

Upper Canada Building Fund.

Lunatic Asylums.

Normal School.

Court Houses, in <i>Aylmer</i> , Montreal, Kamouraska.	}	Lower Canada
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Law Society, Upper Canada.

Montreal Turnpike Trust.

University Permanent Fund.

Royal Institution.

Consolidated Municipal Loan Fund, Upper Canada.

Consolidated Municipal Loan Fund, Lower Canada.

Agricultural Society, Upper Canada.

Lower Canada Legislative Grant.

Quebec Fire Loan.

Temiscouata Advance Account.

Quebec Turnpike Trust.

Education—East.

Building and Jury Fund, Lower Canada.

Municipalities Fund.

Lower Canada Superior Education Income Fund.

#### THE FIFTH SCHEDULE.

##### OATH OF ALLEGIANCE.

I, A. B. do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

*Note.—The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with Proper Terms of Reference thereto.*

#### DECLARATION OF QUALIFICATION.

I, A. B., do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-alieu or in Roture (as the Case may be),*] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

## APPENDIX II

### The 1960 Canadian Bill of Rights

8-9 ELIZABETH II

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#### CHAP. 44

##### An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms.

[Assented to 10th August, 1960.]

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions; Preamble.

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

THEREFORE Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

#### PART I

##### BILL OF RIGHTS.

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely, Recognition and declaration of rights and freedoms.

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;

- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

Construction  
of law.

**2.** Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained
  - (i) of the right to be informed promptly of the reason for his arrest or detention,
  - (ii) of the right to retain and instruct counsel without delay, or
  - (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self incrimination or other constitutional safeguards;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

Duties  
of Minister  
of Justice.

**3.** The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form

to the Clerk of the Privy Council pursuant to the *Regulations Act* and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

4. The provisions of this Part shall be known as the *Canadian Bill of Rights*: Short title.

PART II

5. (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act. Savings.

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada. "Law of Canada" defined.

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada. Jurisdiction of Parliament.

6. Section 6 of the *War Measures Act* is repealed and the following substituted therefor: *War Measures Act*,  
R.S., c. 288

"6. (1) Sections 3, 4 and 5 shall come into force only upon the issue of a proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists. Coming into force by proclamation.

(2) A proclamation declaring that war, invasion or insurrection, real or apprehended, exists shall be laid before Parliament forthwith after its issue, or, if Parliament is then not sitting, within the first fifteen days next thereafter that Parliament is sitting. Proclamation to be submitted to Parliament.

(3) Where a proclamation has been laid before Parliament pursuant to subsection (2), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within ten days of the day the proclamation was laid before Parliament, praying that the proclamation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made. Opportunity for debate.

Revocation  
of proclama-  
tion by  
resolution.

(4) If both Houses of Parliament resolve that the proclamation be revoked, it shall cease to have effect, and sections 3, 4 and 5 shall cease to be in force until those sections are again brought into force by a further proclamation but without prejudice to the previous operation of those sections or anything duly done or suffered thereunder or any offence committed or any penalty or forfeiture or punishment incurred.

*Canadian  
Bill of Rights.*

(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act, shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the *Canadian Bill of Rights*."

## APPENDIX III

### The Universal Declaration of Human Rights

#### PREAMBLE

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

*Whereas* it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

*Whereas* it is essential to promote the development of friendly relations between nations,

*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

*Whereas* Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

*Whereas* a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

*Now, therefore,*

#### *The General Assembly*

*Proclaims* this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

## ARTICLE 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

## ARTICLE 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## ARTICLE 3

Everyone has the right to life, liberty and the security of person.

## ARTICLE 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## ARTICLE 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## ARTICLE 6

Everyone has the right to recognition everywhere as a person before the law.

## ARTICLE 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## ARTICLE 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## ARTICLE 9

No one shall be subjected to arbitrary arrest, detention or exile.

## ARTICLE 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## ARTICLE 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

## ARTICLE 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

## ARTICLE 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

## ARTICLE 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

## ARTICLE 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## ARTICLE 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

#### ARTICLE 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

#### ARTICLE 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

#### ARTICLE 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

#### ARTICLE 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

#### ARTICLE 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

#### ARTICLE 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## ARTICLE 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

## ARTICLE 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## ARTICLE 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## ARTICLE 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

## ARTICLE 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

#### ARTICLE 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

#### ARTICLE 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

#### ARTICLE 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

*Hundred and eighty-third plenary meeting.  
10 December 1948.*

### RIGHT OF PETITION

*The General Assembly,*

*Considering* that the right of petition is an essential human right, as is recognized in the Constitutions of a great number of countries,

*Having considered* the draft article on petitions in document A/C.3/306 and the amendments offered thereto by Cuba and France,

*Decides* not to take any action on this matter at the present session;

*Requests* the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions when studying the draft covenant on human rights and measures of implementation, in order to enable the General Assembly to consider what further action, if any, should be taken at its next regular session regarding the problem of petitions.

*Hundred and eighty-third plenary meeting.  
10 December 1948.*

## FATE OF MINORITIES

*The General Assembly,*

*Considering* that the United Nations cannot remain indifferent to the fate of minorities,

*Considering* that it is difficult to adopt a uniform solution of this complex and delicate question, which has special aspects in each State in which it arises,

*Considering* the universal character of the Declaration of Human Rights,

*Decides* not to deal in a specific provision with the question of minorities in the text of this Declaration;

*Refers* to the Economic and Social Council the texts submitted by the delegations of the Union of Soviet Socialist Republics, Yugoslavia and Denmark on this subject contained in document A/C.3/307/Rev. 2, and requests the Council to ask the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities.

*Hundred and eighty-third plenary meeting.*

*10 December 1948.*

## PUBLICITY TO BE GIVEN TO THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

*The General Assembly,*

*Considering* that the adoption of the Universal Declaration of Human Rights is an historic act, destined to consolidate world peace through the contribution of the United Nations towards the liberation of individuals from the unjustified oppression and constraint to which they are too often subjected,

*Considering* that the text of the Declaration should be disseminated among all peoples throughout the world,

1. *Recommends* Governments of Member States to show their adherence to Article 56 of the Charter by using every means within their power solemnly to publicize the text of the Declaration and to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories;

2. *Requests* the Secretary-General to have this Declaration widely disseminated and, to that end, to publish and distribute texts, not only in the official languages, but also, using every means at his disposal, in all languages possible;

3. *Invites* the specialized agencies and non-governmental organizations of the world to do their utmost to bring this Declaration to the attention of their members.

*Hundred and eighty-third plenary meeting.*

*10 December 1948.*

## PREPARATION OF A DRAFT COVENANT ON HUMAN RIGHTS AND DRAFT MEASURES OF IMPLEMENTATION

*The General Assembly,*

*Considering* that the plan of work of the Commission on Human Rights provides for an International Bill of Human Rights, to include a Declaration, a Covenant on Human Rights and measures of implementation,

*Requests* the Economic and Social Council to ask the Commission on Human Rights to continue to give priority in its work to the preparation of a draft Covenant on Human Rights and draft measures of implementation.

*Hundred and eighty-third plenary meeting.*

*10 December 1948.*

## APPENDIX IV

### **International Convention on the Elimination of All Forms of Racial Discrimination**

*The States Parties to this Convention,*

*Considering* that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

*Considering* that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

*Considering* that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

*Considering* that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

*Considering* that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

*Convinced* that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

*Reaffirming* that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

*Convinced* that the existence of racial barriers is repugnant to the ideals of any human society,

*Alarmed* by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of *apartheid*, segregation or separation,

*Resolved* to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

*Bearing in mind* the Convention concerning Discrimination in respect of Employment and Occupations adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

*Desiring* to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

*Have agreed* as follows:

## PART I

### ARTICLE 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

## ARTICLE 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

## ARTICLE 3

States Parties particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

## ARTICLE 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles

embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organization or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

#### ARTICLE 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;

(c) Political rights, in particular the rights to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

(vii) The right to freedom of thought, conscience and religion;

(viii) The right to freedom of opinion and expression;

(ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

- (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
- (ii) The right to form and join trade unions;
- (iii) The right to housing;
- (iv) The right to public health, medical care, social security and social services;
- (v) The right to education and training;
- (vi) The right to equal participation in cultural activities;

(f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks.

## ARTICLE 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

## ARTICLE 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

## PART II

### ARTICLE 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

## ARTICLE 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

## ARTICLE 10

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

#### ARTICLE 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.

3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.

5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

#### ARTICLE 12

1. (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an *ad hoc* Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention.

(b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.

8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

#### ARTICLE 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.

2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.

3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

#### ARTICLE 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications.

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged.

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

#### ARTICLE 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in sub-paragraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

#### ARTICLE 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

## PART III

### ARTICLE 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

### ARTICLE 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

### ARTICLE 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

### ARTICLE 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

## ARTICLE 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

## ARTICLE 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

## ARTICLE 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

## ARTICLE 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

## ARTICLE 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

## APPENDIX V

### International Covenant on Economic, Social and Cultural Rights

#### PREAMBLE

*The States Parties to the present Covenant,*

*Considering* that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Recognizing* that these rights derive from the inherent dignity of the human person,

*Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

*Considering* the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

*Realizing* that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

*Agree* upon the following articles:

#### PART I

##### ARTICLE 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### ARTICLE 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### ARTICLE 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### ARTICLE 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

### ARTICLE 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

### PART III

#### ARTICLE 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

#### ARTICLE 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
  - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
  - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

#### ARTICLE 8

1. The States Parties to the present Covenant undertake to ensure:

- (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this

right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

- (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
- (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

#### ARTICLE 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

#### ARTICLE 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to

hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

#### ARTICLE 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

- (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

#### ARTICLE 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

#### ARTICLE 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the

full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### ARTICLE 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

## ARTICLE 15

1. The States Parties to the present Covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

## PART IV

### ARTICLE 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

- 2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant.
- (b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

### ARTICLE 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

#### ARTICLE 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

#### ARTICLE 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

#### ARTICLE 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

#### ARTICLE 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

#### ARTICLE 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

#### ARTICLE 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

#### ARTICLE 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

#### ARTICLE 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

### PART V

#### ARTICLE 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

#### ARTICLE 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### ARTICLE 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

#### ARTICLE 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

#### ARTICLE 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 26;
- (b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

#### ARTICLE 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

## APPENDIX VI

### International Covenant on Civil and Political Rights

#### PREAMBLE

*The States Parties to the present Covenant,*

*Considering* that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Recognizing* that these rights derive from the inherent dignity of the human person,

*Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

*Considering* the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

*Realizing* that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

*Agree* upon the following articles:

#### PART I

##### ARTICLE 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### ARTICLE 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

### ARTICLE 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

### ARTICLE 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

#### ARTICLE 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

### PART III

#### ARTICLE 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

#### ARTICLE 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

#### ARTICLE 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;
- (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
- (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
- (i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
  - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
  - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
  - (iv) Any work or service which forms part of normal civil obligations.

#### ARTICLE 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be

detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### ARTICLE 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### ARTICLE 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

#### ARTICLE 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

#### ARTICLE 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision

reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

#### ARTICLE 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

#### ARTICLE 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

#### ARTICLE 16

Everyone shall have the right to recognition everywhere as a person before the law.

#### ARTICLE 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

#### ARTICLE 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

#### ARTICLE 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

#### ARTICLE 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

#### ARTICLE 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

#### ARTICLE 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order

(*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

#### ARTICLE 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as the marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

#### ARTICLE 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

#### ARTICLE 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

## ARTICLE 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

## ARTICLE 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

## PART IV

### ARTICLE 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

### ARTICLE 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

### ARTICLE 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a

written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

#### ARTICLE 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

#### ARTICLE 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

#### ARTICLE 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

#### ARTICLE 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

#### ARTICLE 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

#### ARTICLE 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

#### ARTICLE 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

#### ARTICLE 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

#### ARTICLE 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

(a) Twelve members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

#### ARTICLE 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:

(a) Within one year of the entry into force of the present Covenant for the States Parties concerned;

(b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

#### ARTICLE 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- (a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.
- (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.
- (c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
- (d) The Committee shall hold closed meetings when examining communications under this article.
- (e) Subject to the provisions of sub-paragraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant.
- (f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.
- (g) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.
- (h) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b), submit a report:
  - (i) If a solution within the terms of sub-paragraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
  - (ii) If a solution within the terms of sub-paragraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

#### ARTICLE 42

1. (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an *ad hoc* Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;  
(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not party to the present Covenant, or of a State Party which has not made a declaration under article 41.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.
5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned.

- (a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;
- (b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;
- (c) If a solution within the terms of sub-paragraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;
- (d) If the Commission's report is submitted under sub-paragraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

#### ARTICLE 43

The members of the Committee, and of the *ad hoc* conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### ARTICLE 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

#### ARTICLE 45

The Committee shall submit to the General Assembly of the United Nations through the Economic and Social Council, an annual report on its activities.

### PART V

#### ARTICLE 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

#### ARTICLE 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

### PART VI

#### ARTICLE 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

#### ARTICLE 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### ARTICLE 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

#### ARTICLE 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

#### ARTICLE 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

- (b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

#### ARTICLE 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

## **Optional Protocol to the International Covenant on Civil and Political Rights**

*The States Parties to the present Protocol,*

*Considering* that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,

*Have agreed* as follows:

### **ARTICLE 1**

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a party to the present Protocol.

### **ARTICLE 2**

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

### **ARTICLE 3**

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

### **ARTICLE 4**

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

## ARTICLE 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.

2. The Committee shall not consider any communication from an individual unless it has ascertained that:

- (a) The same matter is not being examined under another procedure of international investigation or settlement;
- (b) The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meetings when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

## ARTICLE 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

## ARTICLE 7

Pending the achievement of the objectives of resolution 1514 (XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

## ARTICLE 8

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratifications shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

## ARTICLE 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

## ARTICLE 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

## ARTICLE 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

## ARTICLE 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

### ARTICLE 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Signatures, ratifications and accessions under article 8;
- (b) The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;
- (c) Denunciations under article 12.

### ARTICLE 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.



## APPENDIX VII

### **Convention for the Protection of Human Rights and Fundamental Freedoms**

Signed at Rome, on 4 November 1950

The Governments signatory hereto, being Members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of Human Rights and Fundamental Freedoms;

Reaffirming their profound belief in those Fundamental Freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the Human Rights upon which they depend;

Being resolved, as the Governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the Rights stated in the Universal Declaration;

Have agreed as follows:

#### ARTICLE 1

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

#### SECTION I

##### ARTICLE 2

(1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

### ARTICLE 3

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### ARTICLE 4

- (1) No one shall be held in slavery or servitude.
- (2) No one shall be required to perform forced or compulsory labour.
- (3) For the purpose of this Article the term "forced or compulsory labour" shall not include:
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service;
  - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - (d) any work or service which forms part of normal civic obligations.

### ARTICLE 5

- (1) Everyone has the right to liberty and security of person.

No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(3) Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear to trial.

(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

(5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

#### ARTICLE 6

(1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

(2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

(3) Everyone charged with a criminal offence has the following minimum rights:

- (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- (b) to have adequate time and facilities for the preparation of his defence;
- (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

- (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

#### ARTICLE 7

(1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

(2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

#### ARTICLE 8

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

#### ARTICLE 9

(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

(2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

#### ARTICLE 10

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions

or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

#### ARTICLE 11

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

#### ARTICLE 12

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

#### ARTICLE 13

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

#### ARTICLE 14

The enjoyment of rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

#### ARTICLE 15

(1) In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

(2) No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

(3) Any High Contracting Party availing itself of this right of derogation shall keep the Secretary-General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary-General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

#### ARTICLE 16

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

#### ARTICLE 17

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

#### ARTICLE 18

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

### *SECTION II*

#### ARTICLE 19

To ensure the observance of the engagements undertaken by the High Contracting Parties in the present Convention, there shall be set up:

(1) A European Commission of Human Rights hereinafter referred to as "the Commission";

(2) A European Court of Human Rights, hereinafter referred to as "the Court".

### *SECTION III*

#### ARTICLE 20

The Commission shall consist of a number of members equal to that of the High Contracting Parties. No two members of the Commission may be nationals of the same State.

#### ARTICLE 21

(1) The members of the Commission shall be elected by the Committee of Ministers by an absolute majority of votes, from a list of names drawn up by the Bureau of the Consultative Assembly; each group of the Rep-

representatives of the High Contracting Parties in the Consultative Assembly shall put forward three candidates, of whom two at least shall be its nationals.

(2) As far as applicable, the same procedure shall be followed to complete the Commission in the event of other States subsequently becoming Parties to this Convention, and in filling casual vacancies.

#### ARTICLE 22

(1) The members of the Commission shall be elected for a period of six years. They may be re-elected. However, of the members elected at the first election, the terms of seven members shall expire at the end of three years.

(2) The members whose terms are to expire at the end of the initial period of three years shall be chosen by lot by the Secretary-General of the Council of Europe immediately after the first election has been completed.

(3) A member of the Commission elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

(4) The members of the Commission shall hold office until replaced. After having been replaced, they shall continue to deal with such cases as they already have under consideration.

#### ARTICLE 23

The members of the Commission shall sit on the Commission in their individual capacity.

#### ARTICLE 24

Any High Contracting Party may refer to the Commission, through the Secretary-General of the Council of Europe, any alleged breach of the provisions of the Convention by another High Contracting Party.

#### ARTICLE 25

(1) The Commission may receive petitions addressed to the Secretary-General of the Council of Europe from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention, provided that the High Contracting Party against which the complaint has been lodged has declared that it recognises the competence of the Commission to receive such petitions. Those of the High Contracting Parties who have made such a declaration undertake not to hinder in any way the effective exercise of this right.

(2) Such declarations may be made for a specific period.

(3) The declarations shall be deposited with the Secretary-General of the Council of Europe who shall transmit copies thereof to the High Contracting Parties and publish them.

(4) The Commission shall only exercise the powers provided for in this Article when at least six High Contracting Parties are bound by declarations made in accordance with the preceding paragraphs.

#### ARTICLE 26

The Commission may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.

#### ARTICLE 27

(1) The Commission shall not deal with any petition submitted under Article 25 which

- (a) is anonymous, or
- (b) is substantially the same as a matter which has already been examined by the Commission or has already been submitted to another procedure of international investigation or settlement and if it contains no relevant new information.

(2) The Commission shall consider inadmissible any petition submitted under Article 25 which it considers incompatible with the provisions of the present Convention, manifestly ill-founded, or an abuse of the right of petition.

(3) The Commission shall reject any petition referred to it which it considers inadmissible under Article 26.

#### ARTICLE 28

In the event of the Commission accepting a petition referred to it:

- (a) it shall, with a view to ascertaining the facts, undertake together with the representatives of the parties an examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;
- (b) it shall place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention.

#### ARTICLE 29

(1) The Commission shall perform the functions set out in Article 28 by means of a Sub-Commission consisting of seven members of the Commission.

(2) Each of the parties concerned may appoint as members of this Sub-Commission a person of its choice.

(3) The remaining members shall be chosen by lot in accordance with arrangements prescribed in the Rules of Procedure of the Commission.

#### ARTICLE 30

If the Sub-Commission succeeds in effecting a friendly settlement in accordance with Article 28, it shall draw up a Report which shall be sent to the States concerned, to the Committee of Ministers and to the Secretary-General of the Council of Europe for publication. This Report shall be confined to a brief statement of the facts and of the solution reached.

#### ARTICLE 31

(1) If a solution is not reached, the Commission shall draw up a Report on the facts and state its opinion as to whether the facts found disclose a breach by the State concerned of its obligations under the Convention. The opinions of all the members of the Commission on this point may be stated in the Report.

(2) The Report shall be transmitted to the Committee of Ministers. It shall also be transmitted to the States concerned, who shall not be at liberty to publish it.

(3) In transmitting the Report to the Committee of Ministers the Commission may make such proposals as it thinks fit.

#### ARTICLE 32

(1) If the question is not referred to the Court in accordance with Article 48 of this Convention within a period of three months from the date of the transmission of the Report to the Committee of Ministers, the Committee of Ministers shall decide by a majority of two-thirds of the members entitled to sit on the Committee whether there has been a violation of the Convention.

(2) In the affirmative case the Committee of Ministers shall prescribe a period during which the High Contracting Party concerned must take the measures required by the decision of the Committee of Ministers.

(3) If the High Contracting Party concerned has not taken satisfactory measures within the prescribed period, the Committee of Ministers shall decide by the majority provided for in paragraph (1) above what effect shall be given to its original decision and shall publish the Report.

(4) The High Contracting Parties undertake to regard as binding on them any decision which the Committee of Ministers may take in application of the preceding paragraphs.

#### ARTICLE 33

The Commission shall meet in camera.

#### ARTICLE 34

The Commission shall take its decisions by a majority of the Members present and voting; the Sub-Commission shall take its decisions by a majority of its members.

#### ARTICLE 35

The Commission shall meet as the circumstances require. The meetings shall be convened by the Secretary-General of the Council of Europe.

#### ARTICLE 36

The Commission shall draw up its own rules of procedure.

#### ARTICLE 37

The secretariat of the Commission shall be provided by the Secretary-General of the Council of Europe.

### *SECTION IV*

#### ARTICLE 38

The European Court of Human Rights shall consist of a number of judges equal to that of the Members of the Council of Europe. No two judges may be nationals of the same State.

#### ARTICLE 39

(1) The members of the Court shall be elected by the Consultative Assembly by a majority of the votes cast from a list of persons nominated by the Members of the Council of Europe; each Member shall nominate three candidates, of whom two at least shall be its nationals.

(2) As far as applicable, the same procedure shall be followed to complete the Court in the event of the admission of new Members of the Council of Europe, and in filling casual vacancies.

(3) The candidates shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence.

#### ARTICLE 40

(1) The members of the Court shall be elected for a period of nine years. They may be re-elected. However, of the members elected at the first election the terms of four members shall expire at the end of three years, and the terms of four more members shall expire at the end of six years.

(2) The members whose terms are to expire at the end of the initial periods of three and six years shall be chosen by lot by the Secretary-General immediately after the first election has been completed.

(3) A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

(4) The members of the Court shall hold office until replaced. After having been replaced, they shall continue to deal with such cases as they already have under consideration.

#### ARTICLE 41

The Court shall elect its President and Vice-President for a period of three years. They may be re-elected.

#### ARTICLE 42

The members of the Court shall receive for each day of duty a compensation to be determined by the Committee of Ministers.

#### ARTICLE 43

For the consideration of each case brought before it the Court shall consist of a Chamber composed of seven judges. There shall sit as an *ex officio* member of the Chamber the judge who is a national of any State Party concerned, or, if there is none, a person of its choice who shall sit in the capacity of judge; the names of the other judges shall be chosen by lot by the President before the opening of the case.

#### ARTICLE 44

Only the High Contracting Parties and the Commission shall have the right to bring a case before the Court.

#### ARTICLE 45

The jurisdiction of the Court shall extend to all cases concerning the interpretation and application of the present Convention which the High Contracting Parties or the Commission shall refer to it in accordance with Article 48.

#### ARTICLE 46

(1) Any of the High Contracting Parties may at any time declare that it recognises as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in all matters concerning the interpretation and application of the present Convention.

(2) The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain other High Contracting Parties or for a specified period.

(3) These declarations shall be deposited with the Secretary-General of the Council of Europe who shall transmit copies thereof to the High Contracting Parties.

#### ARTICLE 47

The Court may only deal with a case after the Commission has acknowledged the failure of efforts for a friendly settlement and within the period of three months provided for in Article 32.

#### ARTICLE 48

The following may bring a case before the Court, provided that the High Contracting Party concerned, if there is only one, or the High Contracting Parties concerned, if there is more than one, are subject to the compulsory jurisdiction of the Court or, failing that, with the consent of the High Contracting Party concerned, if there is only one, or of the High Contracting Parties concerned if there is more than one:

- (a) the Commission;
- (b) a High Contracting Party whose national is alleged to be a victim;
- (c) a High Contracting Party which referred the case to the Commission;
- (d) a High Contracting Party against which the complaint has been lodged.

#### ARTICLE 49

In the event of dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

#### ARTICLE 50

If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the present Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party.

#### ARTICLE 51

(1) Reasons shall be given for the judgment of the Court.

(2) If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

#### ARTICLE 52

The judgment of the Court shall be final.

#### ARTICLE 53

The High Contracting Parties undertake to abide by the decision of the Court in any case to which they are parties.

#### ARTICLE 54

The judgment of the Court shall be transmitted to the Committee of Ministers which shall supervise its execution.

#### ARTICLE 55

The Court shall draw up its own rules and shall determine its own procedure.

#### ARTICLE 56

(1) The first election of the members of the Court shall take place after the declarations by the High Contracting Parties mentioned in Article 46 have reached a total of eight.

(2) No case can be brought before the Court before this election.

### SECTION V

#### ARTICLE 57

On receipt of a request from the Secretary-General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of this Convention.

#### ARTICLE 58

The expenses of the Commission and the Court shall be borne by the Council of Europe.

#### ARTICLE 59

The members of the Commission and of the Court shall be entitled, during the discharge of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

#### ARTICLE 60

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

#### ARTICLE 61

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

#### ARTICLE 62

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in

force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

#### ARTICLE 63

(1) Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary-General of the Council of Europe that the present Convention shall extend to all or any of the territories for whose international relations it is responsible.

(2) The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary-General of the Council of Europe.

(3) The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.

(4) Any State which has made a declaration in accordance with paragraph 1 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Commission to receive petitions from individuals, non-governmental organisations or groups of individuals in accordance with Article 25 of the present Convention.

#### ARTICLE 64

(1) Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this Article.

(2) Any reservation made under this Article shall contain a brief statement of the law concerned.

#### ARTICLE 65

(1) A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a Party to it and after six months' notice contained in a notification addressed to the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.

(2) Such a denunciation shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.

(3) Any High Contracting Party which shall cease to be a Member of the Council of Europe shall cease to be a Party to this Convention under the same conditions.

(4) The Convention may be denounced in accordance with the provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 63.

#### ARTICLE 66

(1) This Convention shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary-General of the Council of Europe.

(2) The present Convention shall come into force after the deposit of ten instruments of ratification.

(3) As regards any signatory ratifying subsequently, the Convention shall come into force at the date of the deposit of its instrument of ratification.

(4) The Secretary-General of the Council of Europe shall notify all the Members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

DONE at Rome this 4th day of November 1950 in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatories.

For the Government of the Kingdom of Belgium:

Paul VAN ZEELAND

For the Government of the Kingdom of Denmark:

O. C. MOHR

For the Government of the French Republic:

SCHUMAN

For the Government of the German Federal Republic:

Walter HALLSTEIN

For the Government of the Icelandic Republic:

Petur BENEDIKTSSON

For the Government of the Irish Republic:

Sean MACBRIDE

For the Government of the Italian Republic:

SFORZA

For the Government of the Grand Duchy of Luxembourg:

Jos BECH

For the Government of the Kingdom of the Netherlands:

STIKKER

For the Government of the Kingdom of Norway:

HALVARD M. LANGE

For the Government of the Saar:

E. HECTOR

For the Government of the Turkish Republic:

F. KÖPRÜLÜ

For the Government of the United Kingdom of Great Britain and Northern Ireland:

ERNEST DAVIES

\* \* \*

*Signed at Paris this 28th day of November 1950*

For the Government of the Kingdom of Greece:

R. RAPHAEL

For the Government of the Kingdom of Sweden:

K. I. WESTMAN

List of Territories for whose international relations Her Majesty's Government in the United Kingdom are responsible to which the European Convention on Human Rights is to be extended:

Aden Colony	Gilbert and Ellice Islands
The Bahamas	Gold Coast
Barbados	Jamaica
Basutoland	Kenya
Bechuanaland	Gibraltar
Bermuda	Zanzibar
British Guiana	Leeward Islands
British Honduras	Federation of Malaya
British Solomon Islands	Malta
Channel Islands:	Isle of Man
The Bailiwick of Jersey	Mauritius
The Bailiwick of Guernsey	Nigeria
Cyprus	Northern Rhodesia
Falkland Islands	North Borneo
Fiji	Nyasaland
Gambia	St. Helena

Sarawak  
Seychelles  
Sierra Leone  
Singapore  
Somaliland  
Swaziland  
Tanganyika

Trinidad  
Uganda  
Windward Islands:  
Dominica  
Grenada  
St. Lucia  
St. Vincent

and at the request of the Government of that Kingdom, for whose international relations Her Majesty's Government in the United Kingdom is responsible,  
Kingdom of Tonga

RESERVATIONS MADE AT THE TIME OF THE DEPOSIT OF THE INSTRUMENTS  
OF RATIFICATION

NORWAY

Whereas Article 2 of the Norwegian Constitution of 17th May, 1814, contains a provision under which Jesuits are not tolerated, a corresponding reservation is made with regard to the application of Article 9 of the Convention.

FEDERAL REPUBLIC OF GERMANY

(1) The territory to which this Convention shall apply extends also to Western Berlin.

(2) In conformity with Article 64 of the Convention, the German Federal Republic makes the reservation that it will only apply the provisions appearing under Article 7, Clause 2, of the Convention so far as is allowed by Article 103, Clause 2 of the Basic Law of the German Federal Republic. This provides that any Act is only punishable if it was so by law before the offence was committed.

(3) As already stated in the Memorandum of 5th November, 1950, the ratification by the German Federal Republic of the Convention for the Protection of Human Rights and Fundamental Freedoms must not be interpreted as recognition of the present status of the Saar.

IRELAND

"Now therefore the Government of Ireland do hereby confirm and ratify the aforesaid Convention and undertake faithfully to perform and carry out all the stipulations therein contained, subject to the reservation that they do not interpret Article 6(3)(c) of the Convention as requiring the provision of free legal assistance to any wider extent than is now provided in Ireland."

# **Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms**

Signed at Paris, on 20 March 1952

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The Governments signatory hereto, being Members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November, 1950 (hereinafter referred to as "the Convention"),

Have agreed as follows:

## **ARTICLE 1**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

## **ARTICLE 2**

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

## **ARTICLE 3**

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

## **ARTICLE 4**

Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary-General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the present Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.

Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.

A declaration made in accordance with this Article shall be deemed to have been made in accordance with Paragraph (1) of Article 63 of the Convention.

#### ARTICLE 5

As between the High Contracting Parties the provisions of Articles 1, 2, 3 and 4 of this Protocol shall be regarded as additional Articles to the Convention and all the provisions of the Convention shall apply accordingly.

#### ARTICLE 6

This Protocol shall be open for signature by the Members of the Council of Europe, who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of ten instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

The instruments of ratification shall be deposited with the Secretary-General of the Council of Europe, who will notify all Members of the names of those who have ratified.

DONE at Paris on the 20th day of March 1952, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatory Governments.

For the Government of the Kingdom of Belgium:

Paul Van ZEELAND

For the Government of the Kingdom of Denmark:

Ole BJOERN KRAFT

For the Government of the French Republic:

SCHUMAN

For the Government of the German Federal Republic:

ADENAUER

For the Government of the Kingdom of Greece:

R. RAPHAEL

*At the time of signature of this Protocol, the Greek Government, pursuant to Article 64 of the Convention, makes the following reservation relating to Article 2 of the Protocol: The application of the word "philo-*

*sophical", which is the penultimate word of the second sentence of Article 2, will, in Greece, conform with the relevant provisions of internal legislation.*

For the Government of the Icelandic Republic:

Petur BENEDIKTSSON

For the Government of the Irish Republic:

Próinsias MAC AOGÁIN

For the Government of the Italian Republic:

Paolo Emilio TAVIANI

For the Government of the Grand Duchy of Luxembourg:

Jos. BECH

For the Government of the Kingdom of the Netherlands:

STIKKER

For the Government of the Kingdom of Norway:

Halvard LANGE

For the Government of the Saar:

Johannes HOFFMANN

For the Government of the Kingdom of Sweden:

Östen UNDÉN

For the Government of the Turkish Republic:

F. KÖPRÜLÜ

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Anthony EDEN

*At the time of signing the present Protocol, I declare that, in view of certain provisions of the Education Acts in force in the United Kingdom, the principle affirmed in the second sentence of Article 2 is accepted by the United Kingdom only so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure.*

RESERVATIONS MADE AT THE TIME OF THE DEPOSIT  
OF THE INSTRUMENTS OF RATIFICATION

SWEDEN

WE do ratify, approve and accept the same with all its Articles and Clauses with the reservation in respect of Article 2 of the Protocol, to the effect that Sweden could not grant to parents the right to obtain, by reason

of their philosophical convictions, dispensation for their children from the obligation of taking part in certain parts of the education in the public schools, and also to the effect that the dispensation from the obligation of taking part in the teaching of Christianity in these schools could only be granted for children of another faith than the Swedish Church in respect of whom a satisfactory religious instruction had been arranged. This reservation is based on the provisions of the new rule of 17th March, 1953, for the establishment of secondary education within the Kingdom and also on the analogous provisions concerning other educational establishments. We do accept, approve and ratify hereby this Protocol in such manner as may be most effective and do wish and promise sincerely and faithfully to observe and fulfil all that is contained in the said Protocol with all its Articles and Clauses, subject to the reservation stated above in respect of Article 2.

#### LUXEMBOURG

Desiring to avoid all uncertainty concerning the application of Article 1 of the Protocol with reference to the Luxembourg law of the 26th April, 1951, concerning the liquidation of certain former enemy property, rights and interests which had been subjected to measures of sequestration,

Declares that it makes a reservation in respect of the provisions of the law of the 26th April, 1951, mentioned above.

#### TURKEY

Article 2 of the Protocol shall not affect the provisions of Law No. 430 of 3rd March, 1924, relating to the unification of education.



## APPENDIX VIII

### Amendments to the United States Constitution

#### ARTICLE I (1791)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

#### ARTICLE II (1791)

A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

#### ARTICLE III (1791)

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

#### ARTICLE IV (1791)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### ARTICLE V (1791)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

#### ARTICLE VI (1791)

In all criminal prosecutions, the accused shall enjoy the right to a speedy public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

#### ARTICLE VII (1791)

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII (1791)

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX (1791)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

#### ARTICLE X (1791)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

#### ARTICLE XI (1798)

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

#### ARTICLE XII (1804)

The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose

a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

#### ARTICLE XIII (1865)

*Section 1.* Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XIV (1868)

*Section 1.* All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

*Section 2.* Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

*Section 3.* No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an Executive or Judicial officer of any State, to support the Constitution of the United

States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

*Section 4.* The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

*Section 5.* The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### ARTICLE XV (1870)

*Section 1.* The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

*Section 2.* The Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XVI (1913)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

#### ARTICLE XVII (1913)

*Section 1.* The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

*Section 2.* When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the Legislature of any State may empower the Executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

*Section 3.* This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

#### ARTICLE XVIII (1919)

*Section 1.* After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

*Section 2.* The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

*Section 3.* This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

#### ARTICLE XIX (1920)

*Section 1.* The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

*Section 2.* Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XX (1933)

*Section 1.* The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

*Section 2.* The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.

*Section 3.* If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

*Section 4.* The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

*Section 5.* Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

*Section 6.* This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several States within seven years from the date of its submission.

## ARTICLE XXI (1933)

*Section 1.* The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

*Section 2.* The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

*Section 3.* This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

## ARTICLE XXII (1951)

*Section 1.* No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which the Article becomes operative from holding the office of President or acting as President during the remainder of such term.

*Section 2.* This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

## ARTICLE XXIII (1961)

*Section 1.* The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of the President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

*Section 2.* The Congress shall have power to enforce this article by appropriate legislation.

## ARTICLE XXIV (1964)

*Section 1.* The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for

President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

*Section 2.* The Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XXV (1967)

*Section 1.* In case of the removal of the President from office or his death or resignation, the Vice President shall become President.

*Section 2.* Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take the office upon a confirmation by a majority vote of both houses of Congress.

*Section 3.* Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

*Section 4.* Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within 48 hours for that purpose if not in session. If the Congress, within 21 days after receipt of the latter written declaration, or, if Congress is not in session, within 21 days after Congress is required to assemble, determines by two-thirds vote of both houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.



## APPENDIX IX

### Principal Canadian Legislation Protecting Human Rights

#### A. CANADA

- (1) *Canadian Bill of Rights*, S. C. 1960, c. 44.

This Act declares the existence of various legal, egalitarian, and political rights and freedoms, and requires that all federal legislation be "construed and applied" so as not to infringe on these rights and freedoms.

- (2) *Canada Fair Employment Practices Act*, S. C. 1952-53, c. 19.

This Act prohibits discrimination on the grounds of race, national origin or religion in employment or in trade union membership. It applies to businesses which are within Parliament's jurisdiction, including federal Crown corporations. Charitable organizations, and those non-profit bodies whose purpose is to foster the welfare of certain religious or racial groups, are exempted from its provisions. The Act provides machinery for an inquiry into complaints, for remedial orders to be made by the Minister which are binding on the parties, and for fines where the Act or the Minister's orders are violated. The convicting court may also make certain remedial orders.

#### B. ALBERTA

- (1) *The Sex Disqualification Removal Act*, R. S. A. 1955, c. 310.

This Act declares that no one shall be "disqualified by sex or marriage" from the exercise of a public function, from holding public office, from carrying on a profession or from admission to an incorporated society.

- (2) *The Human Rights Act*, S. A. 1966, c. 39.

This Act prohibits discrimination on the grounds of race, religion, ancestry or place of origin in accommodation, employment, or trade union membership. The Act expressly binds the Crown in right of the province and all Crown agencies. It exempts organizations similar to those exempted in the federal *Fair Employment Practices Act*. The enforcement provisions are similar to the federal statute—an inquiry, Minister's remedial orders, prosecution if necessary, and remedial orders by the convicting court. The Minister is also authorized here to apply to the Supreme Court of Alberta for an injunction after a conviction to prevent continuation of the contravention.

#### C. BRITISH COLUMBIA

- (1) *Fair Employment Practices Act*, R. S. B. C. 1960, c. 137, as amended by S. B. C. 1964, c. 19.

This Act prohibits discrimination in employment and trade union membership on grounds similar to those in the federal and Alberta statutes, and in addition on the grounds of age (more particularly, on the grounds that a person is between the ages of 45 and 65). Similar exemptions are provided,

and similar enforcement procedures except that there is no injunction provided for and the convicting court is not empowered to make remedial orders.

(2) *Sex Disqualification Removal Act*, R. S. B. C. 1960, c. 352.

This Act is similar to the Alberta statute of the same name.

D. MANITOBA

(1) *The Fair Employment Practices Act*, R. S. M. 1954, c. 81, as amended by S. M. 1956, c. 20.

This Act is very similar to the federal statute of the same name and to the employment provisions of the Alberta *Human Rights Act*. It expressly binds the Crown.

(2) *The Fair Accommodation Practices Act*, S. M. 1960, c. 14.

This Act is similar to provisions respecting accommodation of *The Human Rights Act* of Alberta. Apart from the usual remedies the Minister can, after a conviction under the Act, apply for an injunction to restrain the convicted person from further contraventions. The Crown is bound by the Act.

E. NEW BRUNSWICK

(1) *Fair Employment Practices Act*, S. N. B. 1956, c. 9.

This Act is similar to federal and other provincial fair employment practices legislation. There is no provision for injunctions. The Act does not appear to bind the Crown.

(2) *Fair Accommodation Practices Act*, S. N. B. 1959, c. 6.

This Act is similar to fair accommodation laws of other provinces such as Alberta or Manitoba. It makes provision for an injunction after conviction. It does not appear to bind the Crown.

F. NEWFOUNDLAND

This province does not appear to have any comparable legislation.

G. NOVA SCOTIA

(1) *Human Rights Act*, S.N.S. 1963, c. 5.

This Act, replacing three earlier statutes, consolidates anti-discrimination legislation. In scope and terms it is very similar to *The Human Rights Act* of Alberta. It also includes a requirement of equal pay for both sexes (a matter dealt with in separate legislation in most other provinces).

H. ONTARIO

(1) *The Ontario Human Rights Code 1961-62*, S.O. 1961-62, c. 93, as amended by S.O. 1965, c. 85.

This Act consolidates and amends several pre-existing provisions. It is essentially an anti-discrimination law with respect to employment and accommodation, with provisions similar to those described in the Alberta

and Nova Scotia *Human Rights Act*. Two differences may be noted. First, the Ontario Act has a general prohibition (not confined to employment or accommodation practices) against publication of any notice, sign, symbol, etc., indicating discrimination or an intention to discriminate on the basis of race, religion, nationality or origin. Secondly, there is a Human Rights Commission provided which, apart from being charged with enforcing the Code, is also expected to promote the concept of equality regardless of race, religion, etc., through educational programmes and otherwise.

(2) *The Age Discrimination Act, 1966*, S.O. 1966, c. 3.

This Act forbids discrimination in hiring, retention, or promotion of persons because they are between 40 and 65 years of age. Machinery and sanctions similar to those under *The Ontario Human Rights Code, 1961-62* are provided. The Human Rights Commission is responsible for its administration.

(3) *The Freedom of Worship Act, 14-15 Vict.*, c. 175 (Province of Canada).

This Act, originally passed in 1852, has not been carried in the revised statutes of Ontario since 1897. It declares that the free exercise of religion without discrimination or preference is allowed to all Her Majesty's subjects within the province. By section 129 of the B.N.A. Act this pre-Confederation law continues.

#### I. PRINCE EDWARD ISLAND

Apart from the *Equal Pay Act*, S.P.E.I. 1959, c. 11, this province does not appear to have any comparable legislation.

#### J. QUEBEC

(1) *Freedom of Worship Act*, R.S.Q. 1964, c. 301.

This Act repeats with modifications the provisions of the pre-Confederation *Freedom of Worship Act* referred to in connection with Ontario. As amended (by S.Q. 1953-54, c. 15) it provides that the right of free exercise of religion does not include the distribution in public places of literature containing abusive or insulting attacks against the religion of any of the province's population. Public speeches or the broadcasting of speeches including such attacks are also excepted from the meaning of free exercise of religion.

(2) *Employment Discrimination Act*, R.S.Q. 1964, c. 142.

This Act is similar to other provincial fair employment practices legislation. It defines "discrimination" more precisely and specifies that a "distinction... in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination". Provision is made for an inquiry, but no power is given to the Minister to make a remedial order. Prosecution is the only judicial remedy. The Act binds the Crown.

(3) *Hotels Act*, R.S.Q. 1964, c. 205.

This Act forbids the keepers of hotels, restaurants or camping grounds from discriminating, with respect to lodging, food, or other public services offered, against any person on the basis of race, belief, nationality or origin. Penalties are provided for the violation of the Act, and the offender's permit might not be renewed in case of a violation.

K. SASKATCHEWAN

(1) *The Saskatchewan Bill of Rights Act*, R.S.S. 1965, c. 378.

This Act declares the existence of political rights (including freedom of speech, religion, assembly, and the right to require a provincial election at least once every 5 years), legal rights, and egalitarian rights (including, without discrimination on the basis of race, religion, ethnic or national origin, the right to buy or rent real property, the right to engage in occupations or professions, and the right to education). Penalties are provided against anyone who restricts another in the enjoyment of these rights, and such a person may also be enjoined from such restriction. The Act binds the Crown.

(2) *The Fair Employment Practices Act*, R.S.S. 1965, c. 293.

This Act follows the patterns of the federal and other provincial fair employment practices laws. It provides for an inquiry, Minister's orders, and prosecutions, but not for injunctions. It is binding on the Crown.

(3) *The Fair Accommodation Practices Act*, R.S.S. 1965, c. 379.

This Act follows the usual pattern of fair accommodation practices laws. No provision is made, after an inquiry, for a Minister's remedial order. There is power in the Minister to seek an injunction against an offender after conviction. The Act binds the Crown.

L. NORTHWEST TERRITORIES

(1) *Fair Practices Ordinance*, N.W.T.O. 1966, c. 5.

This Ordinance follows the familiar provincial pattern in prohibiting discrimination in both employment and accommodation. Similar machinery is provided for enforcement. No injunction is provided, but in case of a prosecution the convicting court can, in employment cases, make remedial orders. As in the *Human Rights Act* of Nova Scotia, it also contains a requirement of equal pay for both sexes. The ordinance does not appear to bind the Crown.

M. YUKON TERRITORY

(1) *Fair Practices Ordinance*, Y.O. 1963 (2nd Sess.), c. 3.

This Ordinance is very similar to the Northwest Territories ordinance. It contains no provision with respect to equal pay for both sexes. It does not appear to be binding on the Crown.







